



**U.S. Department of Agriculture  
Farm Service Agency Tree Assistance Program  
Draft Programmatic Environmental Assessment**

**December 2024**

Prepared by Solv LLC for U.S. Department of Agriculture



**Farm Service Agency**

**U.S. DEPARTMENT OF AGRICULTURE**

## COVER SHEET

Proposed Action	The Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) of the United States Department of Agriculture (USDA) proposes to approve a Draft Programmatic Environmental Assessment (PEA) for the purpose of streamlining the implementation of the Tree Assistance Program (TAP), which provides financial assistance to eligible commercial growers for the replanting or rehabilitation of trees, bushes, and vines that are damaged by natural disasters. The Proposed Action Alternative would include additional management tools and screening criteria that allow FSA to respond more quickly and effectively to time-sensitive natural disasters, including but not limited to, plant diseases.
Type of Document	Programmatic Environmental Assessment (PEA)
Lead Agency	United States Department of Agriculture, Farm Service Agency
Cooperating Agencies	None
Further Information	Kara Winslow Natural Resource Specialist USDA Farm Production and Conservation Mission Area Business Center, Environmental Activities Division <a href="mailto:kara.winslow@usda.gov">kara.winslow@usda.gov</a>
Comments	<p>The Draft PEA was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementing procedures found in 7 Code of Federal Regulations [CFR] Part 799, as well as the NEPA of 1969 (40 CFR Parts 1500-1508/42 US Code 4321-4347), as amended. A copy of the Draft PEA can be found on FSA’s Environmental and Cultural Resource Compliance website at <a href="https://www.fsa.usda.gov/programs-and-services/environmental-cultural-resource/nepa/current-nepa-documents/index">https://www.fsa.usda.gov/programs-and-services/environmental-cultural-resource/nepa/current-nepa-documents/index</a>.</p> <p>The Draft PEA and Notice of Availability (NOA) were published on December 18, 2024. Written comments regarding this Draft PEA can be emailed to the address below until January 18, 2025, 30 calendar days from NOA publication, with the following subject line:</p> <p><b>Subject line:</b> Tree Assistance Program Draft PEA Comments, Tracking No. EAXX-005-49-000-1733925290</p> <p><b>Email address:</b> <a href="mailto:SM.FPAC.FBC.ENV@usda.gov">SM.FPAC.FBC.ENV@usda.gov</a></p>

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**Appendix A: Scoping Report**

### Acronyms and Abbreviations

AGI	Adjusted Gross Income
APE	Area of Potential Effect
BFR	Beginning Farmer or Rancher
BGEPA	Bald and Golden Eagle Protection Act
CAA	Clean Air Act
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CH <sub>4</sub>	Methane
CO <sub>2</sub>	Carbon Dioxide
CO <sub>2</sub> e	Carbon Dioxide Equivalent
CWA	Clean Water Act
DAFP	Deputy Administrator for Farm Programs
DI	Diversity Index
EA	Environmental Assessment
ECP	Emergency Conservation Program
EIS	Environmental Impact Statement
EJ	Environmental Justice
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
ESW	Environmental Screening Worksheet
FEMA	Federal Emergency Management Agency
FIRMS	Flood Insurance Rate Maps
FPPA	Farmland Protection Policy Act
FSA	Farm Service Agency
FY	Fiscal Year
GHG	Greenhouse Gas
GWP	Global Warming Potential
H <sub>2</sub> O	Water
IPaC	Information for Planning and Consultation
LRFR	Limited Resource Farmer or Rancher

MBTA	Migratory Bird Treaty Act
N <sub>2</sub> O	Nitrous Oxide
NAAQS	National Ambient Air Quality Standards
NAGPRA	Native American Graves Protection and Repatriation Act
NAP	Noninsured Crop Disaster Assistance Program
NCTPS	Nursery and Christmas Tree Production Survey
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRI	Nationwide Rivers Inventory
PEA	Programmatic Environmental Assessment
PL	Public Law
SDFR	Socially Disadvantaged Farmers and Ranchers
SHPO	State Historic Preservation Officer
T&E	Threatened and Endangered
TAP	Tree Assistance Program
THPO	Tribal Historic Preservation Officer
TMDL	Total Maximum Daily Load
U.S.	United States
USACE	U.S. Army Corps of Engineers
U.S.C.	United States Code
USCB	U.S. Census Bureau
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VFR	Veteran Farmer or Rancher

## 1.0 INTRODUCTION

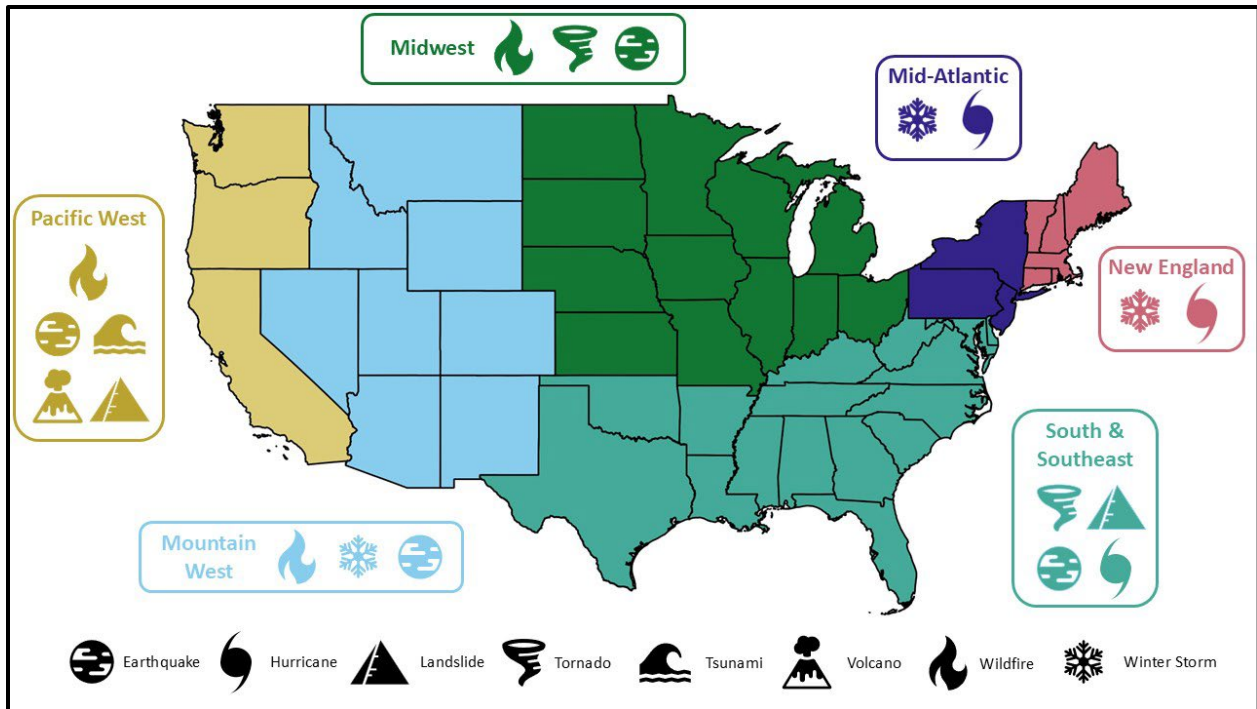
The United States Department of Agriculture (USDA) Farm Service Agency (FSA) has prepared a Draft Programmatic Environmental Assessment (PEA) for the purpose of streamlining the implementation of the Tree Assistance Program (TAP), which provides financial assistance to eligible commercial growers for the replanting or rehabilitation of trees, bushes, and vines that are damaged by natural disasters. The Agricultural Act of 2014 (Public Law [PL] 113-79), as amended by the Agriculture Improvement Act of 2018 (PL 115-334), provides the authority to implement TAP. TAP was made a permanent disaster program by the Agricultural Act of 2014 (known as the 2014 Farm Bill, as amended by the Bipartisan Budget Act of 2018).

This Draft PEA has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] 4321-4347), as amended, the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and 7 CFR Part 799, FSA Implementing Regulations for NEPA. NEPA requires federal agencies to consider the potential effects of major federal actions to both the natural and human environments as part of their planning and decision-making processes. A PEA can be utilized by a federal agency when the actions under a specific program are routine, performed repeatedly, and therefore are likely to have effects that can be similarly evaluated because of similar technologies and construction practices. This helps agencies to eliminate repetitive discussions of the same issues, focus on the actual issues ripe for decision, and exclude from consideration issues already decided or not yet ripe at each level of environmental review (40 CFR 1501.11 & 1502.4(b)).

This Draft PEA has been prepared to streamline the overall TAP NEPA review process. FSA anticipates using the Draft PEA to guide decision-making for site-specific actions over the next five years. Each site-specific action would be evaluated to determine if the potential environmental effects have been addressed under the scope of the Draft PEA.

## 1.1 BACKGROUND

FSA provides farmers with a safety net through the administration of farm commodity and disaster programs such as TAP. The purpose of TAP is to provide financial assistance to commercial tree, bush, and vine growers (e.g., orchards, nurseries, vineyards) to replant or rehabilitate eligible crops damaged by natural disasters, including but not limited to drought, excessive rain and wind damage, fire, flooding, freeze, lightning, and infestation by invasive species or disease. Eligible expenses for TAP funding may include, but are not limited to, site preparation; debris removal; chemicals and nutrients required to reestablish the crop; seedlings or cuttings for replanting; replacement, rehabilitation, and pruning; and labor required for replanting. Potential TAP applicants can use the [USDA Disaster Assistance Discovery Tool](#) to identify USDA disaster assistance programs, including TAP, that may cover their crop loss (USDA, No Date-a). **Figure 1.1-1** shows the types of natural disasters most likely to be experienced by each U.S. region (American Red Cross, No Date).



Sources: American Red Cross, No Date; Wikimedia Commons, 2019; Tol, 2021

**Figure 1.1-1. Common Natural Disasters by Continental U.S. Region**

## 1.2 PROGRAMMATIC ENVIRONMENTAL REVIEW

This Draft PEA addresses NEPA compliance at the program level and covers a broad range of activities that are similar in nature and scope. FSA will evaluate a proposed project using the Environmental Screening Worksheet (ESW) during the planning stage to evaluate potential effects on resources and to document site-specific review. The ESW will serve as the NEPA analysis documentation for the project-specific administrative record.

The ESW is the FSA screening procedure used for individual program applications, including TAP, to evaluate and document any likely environmental effects of a proposed project. The purpose of the ESW is to record the use of categorical exclusions (7 CFR 799.31 and 7 CFR 799.32), when applicable, review if a proposed action that can be categorically excluded involves extraordinary circumstances (7 CFR 799.33), and to determine the level of NEPA review required, either under a categorical exclusion (CE), an environmental assessment (EA), or an environmental impact statement (EIS).

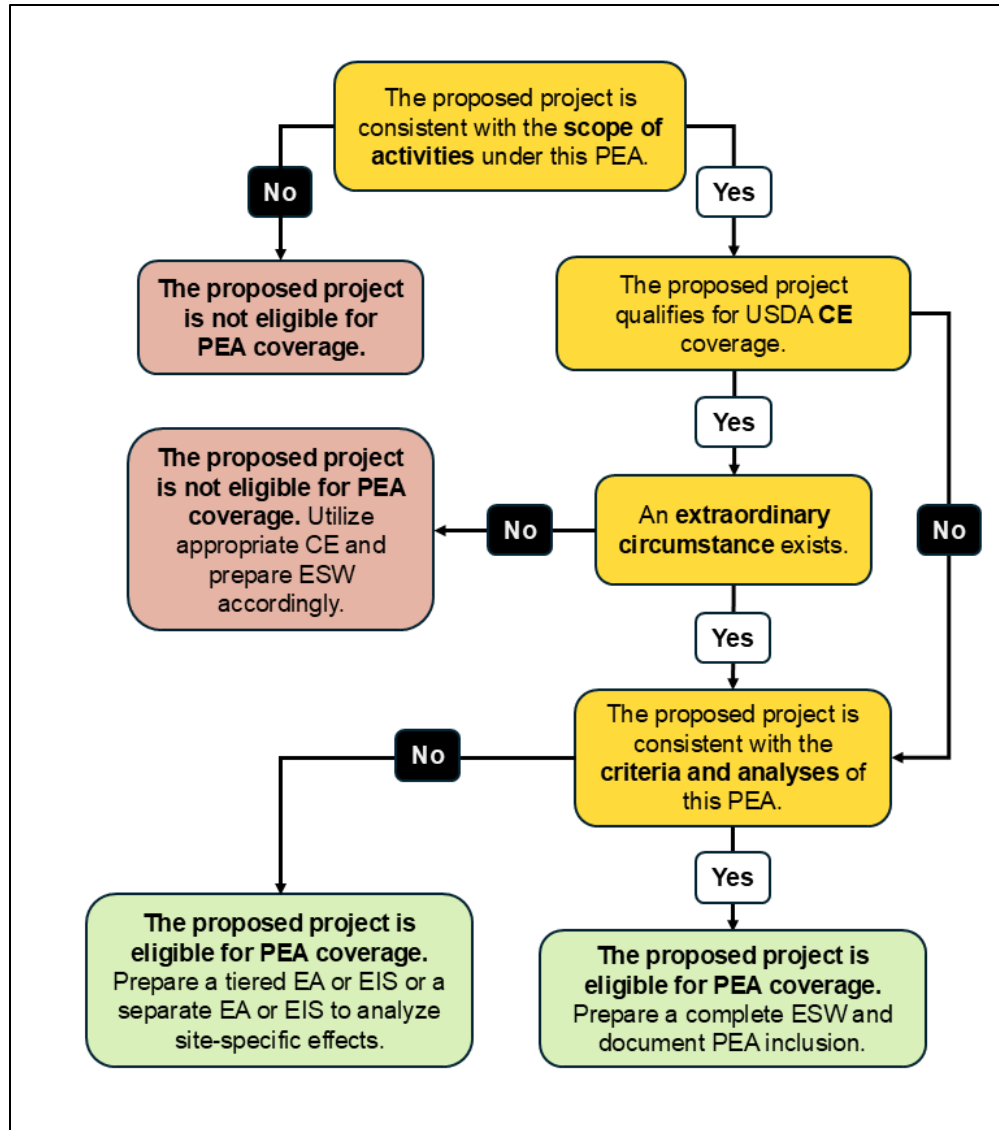
Several rehabilitation actions that may be funded through TAP are covered under FSA’s listed and supported CEs, summarized in **Table 1.2-1**. CEs (7 CFR 799.31 and 7 CFR 799.32) are a class of actions that USDA has determined, after review by CEQ, do not individually or cumulatively have a significant effect on the human environment. FSA’s Listed CEs involve no new ground disturbance below the existing plow zone and therefore only need to be recorded on the ESW. FSA’s Supported CEs could involve ground disturbance and may require consultations under NHPA, ESA, and other relevant environmental mandates to document that no extraordinary circumstances exist. The ESW would document an action’s potential effects. Depending on the level of required NEPA review as determined by the ESW, additional documentation and consultation among agencies may be necessary to evaluate project-specific effects. The TAP NEPA level of review decision process under this Draft PEA is illustrated below in **Figure 1.2-2**.



**Table 1.2-1. TAP Actions with CE Coverage**

TAP Action		CE Coverage
Site preparation	Chiseling and subsoiling	Listed
	Chiseling and subsoiling in areas not previously tilled	Supported
	Site preparation	Listed
	Site preparation for planting or seeding in areas not previously tilled	Supported
	Grading, leveling, shaping, and filling in areas or to depths not previously disturbed	Supported
	Land smoothing	Supported
	Terracing	Supported
	Land-clearing operations (without stump removal) of no more than 15 acres	Supported
Debris removal	Obstruction removal	Listed
Chemicals and nutrients required to reestablish crop	Pest management (consistent with all labelling and use requirements)	Listed
	Nutrient management	Supported
Replanting	Tree protection including plastic tubes	Listed
	Seeding of shrubs	Listed
	Seedling shrub planting	Listed
	Bare land planting or planting without site preparation	Listed
	Tree planting when trees have root balls of one gallon container size or larger	Supported
Replacement, rehabilitation, and pruning	Thinning and pruning of plants	Listed
	Prescribed burning	Supported

Sources: 7 CFR 799.31 & 799.32.



**Figure 1.2-2. TAP NEPA Decision Process Flowchart**

A project is first evaluated to determine if it is within the scope of the activities described in this Draft PEA, both within the range of analysis for resources analyzed, and within the range of effects for each resource. The next step would be to determine if the project qualifies as a CE under 7 CFR 799.31 or 7 CFR 799.32. If the project qualifies for a CE and there are no extraordinary circumstances, then the ESW would be completed with all necessary consultation and the project would be covered under the relevant CE. If a project has extraordinary circumstances, and those effects could be mitigated and are covered under the analysis in this Draft PEA, then a site-specific EA would not be required. In this instance, the ESW would be completed with any necessary consultation and documentation of the Draft PEA coverage. If a project does not qualify for a CE, but the scope of the project is covered under the analysis of this Draft PEA, then the ESW would be completed to document coverage under the Draft PEA. If a project includes effects or elements that are outside the scope of this Draft PEA, or effects that could not be mitigated, then a tiered EA or EIS or a separate EA or EIS would be developed.

The scope of the Draft PEA includes the environmental screening criteria in Section 2.2.1 and the effects analysis in Chapter 3. A tiered EA or EIS would a) incorporate by reference the applicable analyses within this Draft PEA, b) identify which aspects of the proposed project are outside the scope of this Draft PEA, and c) provide additional environmental analyses and documentation only for those aspects of the project not covered under this Draft PEA. Therefore, this Draft PEA can be used as a planning tool to support tiered, site-specific analyses by narrowing the spectrum of environmental effects to focus on project-level reviews as needed.

### 1.3 ELIGIBILITY UNDER TAP

TAP assistance is available for loss of trees (including nursery trees, ornamental trees, fruit trees, nut trees, and Christmas trees), bushes, and vines that produce an annual crop for commercial purposes. Trees used for pulp or timber are not eligible, nor are crops which would have normally been replanted during the 12-month period following a disaster. Since 2017, bananas and plantains have not been eligible for TAP funding. TAP allows for the types of trees, bushes, and vines replanted to be different than those lost and for crops to be planted in fields other than where losses occurred in accordance with program policy (USDA, 2020a).

To qualify for TAP, growers must:

- Have owned the eligible trees, bushes, and vines when the natural disaster occurred, but eligible growers are not required to own the land on which the crops are planted;
- Replace or rehabilitate eligible trees, bushes, and vines within 12 months from the date the TAP application is approved; and
- Have an average adjusted gross income (AGI) no greater than \$900,000 for the relevant tax years.

There are multiple requirements that must be satisfied for a loss to be considered eligible for TAP assistance. At least 15 percent of a stand of TAP-eligible crops, defined as contiguous acreage of the same crop, must have been lost due to eligible natural disaster events after adjustment for normal mortality (USDA, 2020b). Eligible natural disasters include the damage caused to crops by drought, excessive rain and wind, earthquake, fire, flood, freeze, hail, high winds, hurricane, insect infestation, lightning, plant disease, straight line winds, tornado, volcanic emissions, or other occurrences where specifically determined by FSA (USDA, 2020a). For plant diseases and insect infestations, the period for eligible damages or losses is determined by FSA for each stand, and FSA may require information from a qualified expert to determine the extent of the loss. Additionally, the loss must not have been preventable through reasonable and available measures, and the loss must be apparent to an FSA representative either through visual inspection of the stand or through other evidence verifying the cause of the loss as a natural disaster. A certified FSA loss adjustor must verify the qualifying loss, and the number of acres involved. An additional site visit is performed to verify completion of rehabilitation activities. Additional eligibility requirements may also apply. For example, producers on highly erodible land may need to develop a highly erodible land conservation plan to be eligible for TAP funding in accordance with the provisions of the FSA Handbook for Highly Erodible Land Conservation and Wetland Conservation Provisions (USDA, 2021a).

Losses that are eligible for TAP funding may also be eligible for other federal programs and benefits. To avoid duplication of benefits, **Table 1.3-1** describes the benefits that can be received for the same eligible loss, as well as which programs, benefits, or payments cannot be received in addition to TAP funding.

**Table 1.3-1. Payment Eligibility for Duplicate Benefits**

Assistance or Benefit Program	Eligibility
Noninsured Crop Disaster Assistance Program (NAP)	Producers can receive both NAP and TAP funding, but not to exceed the total value of the loss.
Indemnity payments under crop insurance policies, including pilots, for orchard trees	Producers can receive benefits from these programs in addition to TAP funding.
Emergency loans	
Emergency Conservation Program (ECP)	Producers <b>cannot</b> receive benefits from any of these programs in addition to TAP funding for the same or similar loss.
Biomass Crop Assistance Program	
Conservation Reserve Program	
Environmental Quality Incentives Program	
Wetland Reserve Program	
Any other program where duplication of benefits is received	
Florida citrus producers covered by block grant	

#### 1.4 FUNDING UNDER TAP

TAP is a voluntary program triggered by natural disasters; it is not known how much funding will be distributed or how many acres will be enrolled in each state in any given year. For losses after January 1, 2017, there are no limits on the amount of TAP payment that producers can receive annually, although it is important to note that TAP payments are included in AGI calculations. As stated above, producers with an average AGI greater than \$900,000 are not eligible for TAP assistance. Additionally, producers can only receive TAP payments for a maximum total of 1,000 cumulative acres annually. If deemed necessary by FSA, producers could receive TAP assistance beyond the 1,000-acre limit in identified emergency situations, such as in the case of severe disease or infestation.

TAP reimburses qualified producers for the lesser of the following: 65 percent of the actual cost of replanting (in excess of 15 percent mortality, adjusted for normal mortality), 50 percent of the actual cost of rehabilitation (in excess of 15 percent mortality, adjusted for normal mortality), or the maximum eligible amount established for the practice by FSA. Beginning with losses in 2019, the 2018 Farm Bill increased the reimbursement amount for applicants who are classified as Beginning Farmer or Rancher (BFR) or Veteran Farmer or Rancher (VFR). The payment calculation for BFRs or VFRs is the lesser of the following: 75 percent of the actual cost of replanting (in excess of 15 percent mortality, adjusted for normal mortality), 75 percent of the actual cost of rehabilitation (in excess of 15 percent mortality, adjusted for normal mortality), or the maximum eligible amount established for the practice by FSA.

#### 1.5 ACTIVITIES COVERED BY TAP

TAP funds rehabilitation work to ensure successful crop survival when reestablishing or replanting a damaged stand. The following are actions and activities covered under TAP:

- The purchase of seedlings or cuttings for replanting;
- Site preparation and debris removal within normal horticultural practices for the stand being reestablished and necessary to ensure successful plant survival;
- Pruning, removing, and other costs incurred to salvage damaged trees and woody vegetation;

- Preparing the land for new tree or woody vegetation planting in the case of tree mortality;
- Chemicals and nutrients required to reestablish crops;
- Labor to plant new seedlings; and
- If applicable, labor used to transplant existing seedlings established through natural regeneration into a productive stand.

Site preparation could include activities such as tree and debris removal, filling and leveling ground, and tilling. These activities could employ controlled burning and the use of heavy equipment including front-end loaders, tractors, backhoes, stump grinders, skidders, and bucket trucks.

Rehabilitating or replanting crops could include activities such as planting new seedlings or cuttings, thinning and pruning, application of pesticides and/or nutrients, implementing tree protection (e.g., plastic tubing around the trunk), and crop replacement, including replanting trees. If these activities would result in ground disturbance below the depth of previous tillage or other ground disturbance, then additional site-specific environmental documentation and consultations are required. As necessary, best management practices and mitigation measures would be site specific and identified in the planning stage of a project.

## **1.6 SCOPE OF THE PEA**

Per 40 CFR 1501.11, a programmatic NEPA analysis can be used to “evaluate the environmental effects of policies, programs, plans, or groups of related activities.” Programmatic environmental documents can be used to evaluate widely applicable measures and avoid duplicative analysis for individual actions by first considering the relevant issues at a broad, programmatic level. CEQ guidance also states that “agencies may prepare a single NEPA document to support both programmatic and project-specific proposals” (CEQ, 2014).

FSA is proposing a programmatic NEPA approach for TAP that would streamline the environmental compliance process. The goals of this Draft PEA are to identify a suite of common management activities which occur under TAP, develop a comprehensive list of environmental screening criteria to limit environmental effects, and analyze the potential effects of the program on the natural and human environment. Since TAP is a national program, the geographic scope of this Draft PEA covers the entire United States (U.S.) and its territories. TAP is a permanent disaster program as of 2014, so the temporal scope of this Draft PEA includes five years from the publication of the Draft PEA without additional review of the analysis per 40 CFR 1501.11. After five years, the Draft PEA could continue covering TAP activities provided that FSA reevaluates the analysis and any underlying assumptions in the Draft PEA to ensure that the analysis remains valid.

The government action for this Draft PEA is to provide funding for rehabilitation work including pruning, removing, and salvaging existing trees, bushes, and vines or, for crop mortality, preparing the land (e.g., pesticide application), and replanting. Two alternatives were considered. The No Action Alternative is the continued implementation of the TAP program using the current environmental review process. The Proposed Action Alternative considers the inclusion of screening criteria to allow for a more streamlined environmental review process for TAP applications under certain conditions.

FSA identified three primary goals for this Draft PEA: 1) provide updated NEPA compliance and coverage for the TAP program as it exists today, 2) qualitatively assess program-level effects to greenhouse gas (GHG) emissions and climate change in accordance with Agency and Administration emphasis on these factors, and 3) increase efficiency with environmental compliance and consultation efforts for individual TAP applications.

## **1.7 PURPOSE AND NEED**

The purpose of the Proposed Action is to implement TAP on a nationwide basis to provide financial assistance to commercial producers who experience losses due to damage from natural disasters to replant or rehabilitate eligible trees, bushes, and vines.

The need for the Proposed Action is to streamline the environmental review process for the implementation of TAP to improve the utility and accessibility of the program. TAP provides disaster assistance to eligible orchardists and nursery tree growers to replant or rehabilitate trees, bushes, and vines that were damaged or lost because of a natural disaster. The Proposed Action is needed to provide funding for approved applicants under TAP in a streamlined process. The current TAP environmental compliance process may potentially be lengthy and result in delays in the rehabilitation of damaged crops. Additionally, emergency situations require a swift response, and the Proposed Action would allow farmers to address crop disease and natural disasters promptly to prevent further loss.

## **1.8 DECISION TO BE MADE**

This Draft PEA evaluates the effects of the alternatives on the environment. Based on the identified purpose and need, the scope of the project is limited to the activities and environmental screening criteria described in Section 2.2.1. The environmental analysis will provide the deciding official with the information to make the following decisions regarding the proposed rehabilitation activities under TAP:

- Which actions, if any, will be approved;
- If any additional mitigation measures and monitoring are required to protect resources; and
- If it is necessary to prepare an EIS to further analyze the effects of TAP.

## **1.9 REGULATORY COMPLIANCE**

Applicants would be required to comply with all applicable federal, state, and local laws and regulations, including, but not limited to:

### **Statutes**

- Archaeological Resources Protection Act of 1979 (16 U.S.C. § 470aa-mm);
- Clean Air Act (CAA), as amended (PL 88-206; 42 U.S.C. § 7401 et seq.);
- Clean Water Act (CWA), as amended (PL 107-303; 33 U.S.C. § 1251, et seq.);
- Endangered Species Act (ESA) of 1973 (PL 93-205; 16 U.S.C. § 1531 et seq.);
- Farmland Protection Policy Act (FPPA) (7 U.S.C. § 4201 et seq.);
- Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. § 3001 et seq.);
- Section 106 of the National Historic Preservation Act (NHPA) of 1966 (PL 89-665; 80 Stat. 915; and
- 16 U.S.C. 470 et seq.), as amended (implemented under regulations of the Advisory Council on Historic Preservation, 36 CFR Part 800).

### **Regulations**

- Protection of Archaeological Resources: Uniform Regulations (32 CFR Part 229);
- Protection of Historic Properties (36 CFR Part 800);

- Hazardous Substance Regulations (40 CFR Parts 300-399);
- Conformity of General Federal Actions to State or Federal Implementation Plans (40 CFR Parts 6, 51, and 93);
- CEQ NEPA Regulations (40 CFR Parts 1500-1508); and
- Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (48 Federal Register 44716, Thursday, September 29, 1983).

#### **Executive Orders**

- Executive Order (EO) 11988 Floodplain Management;
- EO 11990 Protection of Wetlands;
- EO 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations;
- EO 13693, Planning for Federal Sustainability in the Next Decade; and
- EO 14008, Tackling the Climate Crisis at Home and Abroad.

### **1.10 PUBLIC INVOLVEMENT AND CONSULTATION**

The NEPA process provides opportunities for public engagement. Interested and affected parties may provide their views regarding the project, its possible effects on the natural and human environment, what should be addressed in the analysis and evaluation of the action alternatives, and the adequacy of the NEPA analysis.

#### **1.10.1 Scoping**

FSA developed a list of stakeholders that includes federal, state, and public agencies with a known or potential interest in TAP. An interested party letter was mailed to the stakeholders on November 2, 2023, informing them of the intent to develop a Draft PEA. The letter provided background information on the screening criteria, a brief description of the alternatives, and an invitation for comments on the scope of the Draft PEA. The public scoping period ran from November 2, 2023, to January 4, 2024.

**Table 1.10-1** summarizes the comments received during public scoping. A total of 13 commenters submitted 24 different comments during the public scoping period. All comments received were from state agencies.

**Table 1.10-1. Public Scoping Comments by Subject**

<b>Subject</b>	<b>Number of Comments</b>
Air Quality	1
Biological Resources	4
Cultural and Historic Resources	7
Karst Geography	1
Permitting	1
Public Outreach	4
Requests for Information	1
Screening Criteria	3
Solid Waste	1
Water Resources	1
<b>Total</b>	<b>24</b>

The scoping report (included in Appendix A) describes the project (e.g., background information and alternatives), includes the interested party letter, and summarizes the public comments received.



## **2.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES**

Per 40 CFR Part 1502.14, the federal government must consider reasonable alternatives to the proposed action. Considering alternatives helps avoid unnecessary effects and allows analysis of reasonable ways to achieve the stated purpose. To warrant detailed evaluation, an alternative must be reasonable. To be considered reasonable, an alternative must be economically feasible, capable of implementation, and must meet the purpose of and need for the action. Based on these criteria, FSA identified one action alternative, the Proposed Action Alternative, that meets the stated purpose and need of the project, and it has been carried forward for detailed analysis. This alternative is presented in Section 2.2.

FSA also analyzed a No Action Alternative, which allows FSA leadership and the public to compare the potential effects of the Proposed Action Alternative with the effects that would occur if USDA continued to operate TAP under current conditions (i.e., the existing environmental review process). The No Action Alternative is presented in Section 2.1. TAP funding and eligibility criteria would not change regardless of the alternative chosen and would be applicable to both the No Action Alternative and the Proposed Action Alternative.

### **2.1 NO ACTION ALTERNATIVE**

The No Action Alternative is included and analyzed to provide a baseline for comparison with effects from the project and to satisfy federal requirements for analyzing “no action” under NEPA (40 CFR 1502.14(c)). The No Action Alternative assumes that FSA would continue to administer TAP disaster assistance using the existing environmental review process. This alternative would not meet the purpose and need of the project.

### **2.2 PROPOSED ACTION ALTERNATIVE**

FSA seeks to refine and streamline the environmental compliance process under TAP. Under the Proposed Action Alternative, TAP would continue to be implemented nationwide to reimburse eligible producers for allowable expenses related to reestablishing commercial tree, bush, and vine crops lost to natural disasters. A programmatic NEPA approach to TAP would streamline the NEPA review process for producers seeking assistance. In addition to the continued implementation of TAP on a nationwide basis, the Proposed Action Alternative would include environmental screening criteria and additional management tools that allow FSA to respond more quickly and effectively to time-sensitive natural disasters, such as plant diseases. The Proposed Action Alternative would retain the current eligibility criteria that producers must meet to qualify for TAP funding. Eligibility criteria for TAP are discussed in Section 1.2.

#### **2.2.1 Environmental Screening Criteria**

FSA has proposed environmental screening criteria for the purpose of this Draft PEA to minimize the potential environmental, social, and economic effects of the Proposed Action Alternative. To facilitate a more efficient NEPA evaluation, the Proposed Action Alternative would implement these screening criteria to serve as guidelines for projects subject to this programmatic review. Projects that do not meet the screening criteria would require separate NEPA analysis using the existing TAP environmental compliance process.

The Proposed Action Alternative includes the following screening criteria for project activities that would be covered by this programmatic NEPA review:

- Projects would limit ground disturbance to the depth of previous disturbance. Some projects may involve FSA-approved stumping. See Section 2.2.2 for discussion on stumping in the context of ground disturbance;
- Projects would not occur in designated critical habitat for threatened and endangered (T&E) species;
- Projects would occur outside a 100-foot buffer surrounding bodies of water or wetlands;
- Projects would involve only the clearing of woody vegetation of eligible trees, bushes, or vines; and
- Projects would limit land clearing to eligible orchards, vineyards, and shrubs associated with the program for a maximum of 1,000 acres annually (the maximum cumulative total acres eligible for TAP assistance per operation annually).

Projects with elements that do not meet the above criteria would need to undergo separate NEPA analysis using the existing TAP environmental compliance process.

## **2.2.2 Management Tools**

TAP funding would continue to be available for producers to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters. See Section 1.5 for discussion on the activities currently covered under TAP.

The Proposed Action Alternative would allow, as deemed necessary by FSA, the removal of tree stumps (stumping) of infected, infested, or disaster impacted trees for projects that meet all criteria in Section 2.2.1. Under the Proposed Action Alternative, the existing TAP annual acreage clearing maximum would remain in effect; tree stumps and impacted trees could be removed on up to 1,000 acres annually per producer. Only impacted, cultivated, TAP-eligible trees grown in orchards or farms could be removed under the Proposed Action Alternative. The extent of impacted tree removal would depend on FSA's determinations regarding the severity of infection, the possibility for crop damage, and the capacity for spread. Cumulative mortality losses due to plant disease must be approved by the Deputy Administrator for Farm Programs (DAFP). Losses due to instances of disease over periods greater than one year may be considered for funding on a project-by-project basis by the DAFP.

Stumping under the Proposed Action Alternative would involve the removal of the stump of the tree and as many roots as practical when the criteria outlined below for previous disturbance are met. A stump is the lower portion, up to 4 feet tall, of a tree that remains after the upper portion of the tree is removed (MSU Extension, 2019). Stumping methods can include natural decay, burning, hand grubbing or digging, or mechanical stump grinding using a machine (MSU Extension, 2019; UIUC, 2014). Grubbing or digging stumps can be labor-intensive depending on the size and weight of the stump.

- TAP-eligible trees are collectively vulnerable to a number of diseases, including those that target the roots of infected plants. Stumping may be especially important when controlling outbreaks of root diseases, as the presence of infected stumps could further the spread of infection (UM Extension, 2024). For several root diseases, common control measures include a full removal and disposal of infected plants and their roots (Prabhakaran Nair, 2010).

Stumping would be authorized under the Proposed Action Alternative when it would not result in new ground disturbance relative to prior planting rotations in the same location. TAP-funded stumping activities implemented during time-sensitive situations would involve quicker and less labor-intensive methods such as burning or mechanical grinding. Often under the current environmental review process,

consultation with the relevant State Historic Preservation Officer (SHPO), Tribes, and Tribal Historic Preservation Officer(s) (THPO) is required when stumping occurs due to the possibility of disturbing or destroying cultural resources. When a site does not have a prior history of stumping, the removal of stumps (including the removal of tree roots) could result in ground disturbance below the previous level of disturbance because the root balls of the adult trees have grown larger than the initial root balls when the trees were first planted. However, some tree crops (e.g., cherry trees) are regularly rotated, involving the cyclical removal of trees, stumps, and roots and replanting of new trees. Therefore, previous tree removals have already disturbed the ground to a greater depth than the original plantings. As such, under this Draft PEA, stumping that occurs on these sites is within the previous level of ground disturbance and would not require consultation with the SHPO, Tribes, and THPO. Applications involving stumping below the level of previous disturbance on sites with no previous history of stumping would require separate analysis and consultation with the relevant SHPO, Tribes, and THPO(s) and would not be covered under this Draft PEA.

## **2.3 ALTERNATIVES CONSIDERED AND DISMISSED FROM DETAILED ANALYSIS**

During development of the alternatives, FSA considered the Climate Adaptive Alternative, which would proactively incorporate climate adaptive measures into TAP. This alternative was ultimately dismissed from analysis due to not being a reasonable alternative under NEPA (40 CFR 1508.1(hh)).

### **2.3.1 Climate Adaptive Alternative**

Under the Climate Adaptive Alternative, TAP would be implemented nationwide in a similar manner as under the Proposed Action Alternative, but with the addition of funding or reimbursement opportunities for the proactive replacement of existing TAP crops with climate adaptative crops. Examples of potential climate adaptive approaches included under this alternative could include:

- Replacing crops that consume large amounts of water with crops that consume less water in areas experiencing aridification. Agriculture is a major user of water in the U.S.; irrigation alone, which is necessary in much of the western U.S. to support crop production, accounted for 42 percent of the total freshwater withdrawals in 2015 (USDA, 2023a). Additionally, drought is common across many parts of the U.S., and evidence suggests that anthropogenic warming is driving aridification (USDA, No Date-b; USDA, No Date-c).
- Replacing crops that require the importation of pollinators to areas experiencing reduced pollination with crops that do not require the importation of pollinators. Pollinators, such as honeybee colonies, are currently transported across the country to provide pollination in areas that do not have enough native pollinators. The transport of pollinators contributes to greenhouse gas emissions (USDA, 2023b).
- Replacing crops that require large amounts of fertilizer with crops that require less fertilizer.

FSA initially considered this alternative based on the environmental and economic benefits that would occur from the shift from high-intensity crops to low-intensity crops. However, for an alternative to be analyzed in detail in a NEPA document, the alternative must be reasonable. A reasonable alternative under NEPA is one that is technically and economically feasible and that meets the purpose and need for the Proposed Action (40 CFR 1508.1(z)).

The Climate Adaptive Alternative would meet the purpose and need for the Proposed Action, but it would not be technically or economically feasible under either current or reasonably foreseeable conditions. Currently, eligible growers would need to experience a qualifying loss of eligible crops due to a natural disaster to qualify for TAP assistance. However, under the Climate Adaptive Alternative, eligible growers

would not need to experience a qualifying loss to receive financial assistance. Therefore, the Climate Adaptive Alternative is outside the scope of TAP. FSA does not have the statutory authority to provide financial assistance to growers that do not first experience a qualifying loss under the existing TAP program. Thus, this alternative was eliminated from consideration.

### 3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

Chapter 3 describes the current environment for resource areas that may be affected by the alternatives and analyzes the potential environmental consequences associated with the alternatives. Through internal and external scoping, USDA has identified the following resource areas to evaluate in detail in this Draft PEA:

1. Biological Resources (including Vegetation, Wildlife, and Special Status Species);
2. Water Resources (including Water Quality, Stormwater, Groundwater, Wetlands, and Floodplains);
3. Climate Change;
4. Cultural and Tribal Resources;
5. Socioeconomics; and
6. Environmental Justice (EJ).

USDA considered but dismissed from detailed analysis the following resource areas: Coastal Barriers, Coastal Zones, Wilderness Areas, Wild and Scenic Rivers, National Natural Landmarks, Sole Source Aquifers, Soils, Air Quality, Noise, and Important Land Resources. The dismissal rationale for these resource areas is provided in Section 3.8.

### 3.1 METHODOLOGY

The affected environment sections describe the existing conditions from a nationwide, programmatic perspective and discuss the regulatory background related to the existing conditions where appropriate. The analyses for each resource are of a programmatic nature, and specific analysis of potential effects to resources would occur on a project-by-project basis, if needed.

The analysis of environmental consequences for each resource characterizes potential effects, including any assumptions made. The analysis considers how the condition of a resource would change because of implementing each alternative and describes the types of effects that would occur (e.g., direct, indirect, beneficial, or adverse). Effects are assessed using three parameters: magnitude, duration, and extent. The effect types and evaluation criteria are described below.

#### 3.1.1 Types of Effects

According to CEQ'S NEPA Regulations at 40 CFR Parts 1500-1508, direct and indirect effects are defined as:

**Direct effects:** Effects that are caused by the action and occur at the same time and place (1508.1[i][1]). Examples include filling a wetland or digging up an archaeological site.

**Indirect effects:** Effects that are caused by the action and occur later in time or are farther removed in distance but are still reasonably foreseeable. Indirect effects also include "induced changes" in the human and natural environments (1508.1[i][2]).

Identified effects may be either adverse or beneficial. For this Draft EA, the following definitions are used:

**Adverse effects:** Those effects having a negative and harmful effect on the analyzed resource. An adverse effect causes a change that moves the resource away from a desired condition or detracts from its appearance or condition.

**Beneficial effects:** Those effects having a positive and supportive effect on the analyzed resource. A beneficial effect constitutes a positive change in the condition or appearance of the resource or a change that moves the resource toward a desired condition.

Adverse and beneficial effects from the alternatives are not combined into a single, net effect; they are noted and assessed separately because an action may result in a significant adverse effect to a resource area even though there may be an overall beneficial effect.

### **3.1.2 Evaluation Criteria**

Evaluation criteria (or significance criteria) provide a structured framework for assessing effects, supporting conclusions regarding the significance of effects, and comparing effects between alternatives.

#### **Context and Intensity**

As defined in 40 CFR 1501.3(d), determination of the significance of effects requires consideration of both context and intensity. The significance of an action must be analyzed considering society as a whole (e.g., human, national), the affected region, the affected interests, and the locality. Both short- and long-term effects are relevant. Intensity refers to the severity or magnitude of the effect.

Effects were determined systematically by assessing three parameters of environmental effects: magnitude (i.e., how much), duration (i.e., how long), and extent (i.e., how big or how far). Each parameter was divided into the following levels:

#### **Magnitude**

- Major – Substantial effects or change in a resource area that is easily defined, noticeable and measurable, or exceeds a regulatory standard.
- Moderate – Noticeable change in a resource area occurs, but the integrity of the resource area remains intact.
- Minor – Change in a resource area occurs, but no substantial effect results.
- Negligible – The effect is at the lowest levels of detection, barely measurable but with perceptible consequences.
- None – The effect is below the threshold of detection with no perceptible consequences.

#### **Duration**

- Permanent – Effects would persist far beyond the period of crop rehabilitation such that they are functionally permanent.
- Long-term – Effects would persist beyond the period of crop rehabilitation.
- Short-term – Effects would occur only during crop rehabilitation (temporary).

#### **Extent**

- Regional – Effects extend to a larger area beyond the farm and its immediate vicinity.
- Local – Effects extend beyond the farm and affect the area in the general vicinity of the farm.
- Site-specific – Effects are limited to the specific farm where TAP-funded actions are implemented.

## **3.2 BIOLOGICAL RESOURCES**

Biological resources refer to the living components of the environment, including terrestrial and aquatic vegetation and wildlife, as well as special status species protected under federal and state law. Special status species include T&E species protected under the ESA and migratory birds protected under the Migratory Bird Treaty Act (MBTA). Critical habitat is designated by the U.S. Fish and Wildlife Service (USFWS) as essential for the recovery of T&E species, and like those species, is protected under ESA.

This section discusses the affected environment and environmental consequences that would result under each alternative for biological resources, including vegetation, wildlife, and special status species. The area of analysis for biological resources is nationwide but specific to TAP-eligible land that has experienced natural disasters, is eligible for assistance from the TAP program, and qualifies under the screening criteria of this Draft PEA.

### **3.2.1 Affected Environment**

Biological resources are often described in terms of ecoregions. An ecoregion is a geographically defined area where ecosystems and the quality and quantity of environmental resources within them are generally similar (EPA, 2024a). Ecoregions are identified by the patterns and composition of natural phenomena, such as the occurrence of wildlife and vegetation species, which reflect differences in ecosystem quality and integrity. North America has been divided into 15 broad, Level I ecological regions that highlight major ecological areas (EPA, 2024a).

Projects covered under this Draft PEA have the potential to occur over many of the ecoregions identified throughout the U.S. Because of the large geographic scope, the sporadic nature of natural disasters, and the voluntary nature of TAP participation, it is not possible to predict the ecoregion location of the lands requesting assistance from the program, nor the vegetation and wildlife that inhabit those lands. However, actions taken under this project would take place on existing, disturbed commercial land with TAP-eligible trees, bushes, and vines.

#### **3.2.1.1 Vegetation**

As TAP would take place on established commercial farms, it is unlikely that substantial native plant communities would exist on many project sites. The plant community composition on each site would likely consist largely of the desired crop that had been established on the farm. The crop would vary by farm but could consist of any TAP-eligible crop species such as, but not limited to, cherry trees, Christmas trees, and grape vines. Farms often consist of monocultural stands of the desired plant species, with other plants often consisting of weeds or invasive grasses. However, there may be instances where TAP crops are established on unused fields that have undergone the process of ecological succession and contain native grasses, shrubs, and woody vegetation. Vegetation located in unused fields would likely be composed of grasses, shrubs, and potentially small trees common to the respective region of the individual site.

#### **3.2.1.2 Wildlife**

The geographic scale of the lands affected by TAP encompasses the entire U.S. and territories, and thus there are many terrestrial and aquatic animal species occurring in the project area. Given the national scale of TAP, the sporadic nature of natural disasters, and the programmatic level of this analysis, it is not feasible to list all the species that may be present on land that is potentially eligible for TAP.

Agricultural land can potentially provide forage and cover for some wildlife species, but many agricultural areas consist of large monocultural or managed stands that provide limited habitat value to native wildlife.

Individual project sites could represent a variable amount of ecological value depending on the crop. To qualify for TAP assistance, at least 15 percent of the trees in any stand must be dead (after adjusting for normal mortality), further reducing the available habitat for some species and potentially providing additional habitat for other species. Habitat generalists can utilize a variety of habitats and can thrive in disturbed and fragmented habitats. Conversely, some species have very specific habitat requirements and are more likely to be affected by habitat loss and fragmentation. Agriculture has often led to the fragmentation of natural habitat. Habitat fragmentation is detrimental to species that require large contiguous patches of suitable land and beneficial to others that may favor edge habitats.

### **3.2.1.3 Special Status Species**

Special status species include those species listed under the ESA, birds protected under the MBTA, and bald and golden eagles protected under the Bald and Golden Eagle Protection Act (BGEPA). The ESA provides a program for the conservation of T&E species and seeks to conserve the ecosystems upon which such species depend. The ESA directs all federal agencies to participate in conserving these species and to use their authorities to further the purposes of the ESA. Specifically, Section 7(a)(1) of the ESA charges federal agencies to aid in the conservation of T&E species, and Section 7(a)(2) requires the agencies to ensure that their activities are not likely to jeopardize the continued existence of listed species or adversely modify designated critical habitats.

This Draft PEA includes screening criteria that ensure that individual project sites would not contain designated critical habitat. Individual projects would review the USFWS Information for Planning and Consultation (IPaC) online database to determine if any ESA-listed species or designated critical habitat are present in the vicinity of the potential site. The commercial, monocultural nature of TAP-eligible stands generally implies that there is likely little habitat available for ESA-listed species, many of which have limited ranges and require specialized habitats. However, FSA has not made any effects determinations or initiated informal or formal consultation with USFWS or the National Marine Fisheries Service on the Proposed Action Alternative in this Draft PEA. It is impractical to predict which listed species may be affected, or the way they may be affected, until site-specific actions are known. The potential action area for the Draft PEA is too broad, and the geographic and temporal parameters of actions that may affect listed species are too speculative, to enable meaningful consultations. Therefore, consultations would be initiated at the earliest planning stage for site-specific actions when FSA determines the action may affect ESA-listed species.

The bald eagle (*Haliaeetus leucocephalus*) was formerly federally listed as a threatened species under the ESA; but in 2007, it was removed from the federal list of T&E species. However, bald and golden eagles continue to be protected under the BGEPA and the MBTA. The typical habitat used by bald eagles includes riparian areas near rivers, lakes, and marshes. Bald eagle pairs usually choose the tops of large trees to build nests but have also used cliffs, the ground, and even human-made structures like power poles and communication towers that afford an unobstructed view of the surrounding habitat (USFWS, 2021). Golden eagles are known to be sensitive to human activity and avoid developed areas (USFWS, No Date). TAP sites are commercial agricultural areas that are commonly composed of monocultural stands of TAP-eligible trees. TAP-eligible trees are relatively small compared to old-growth native trees and thus provide minimal, if any, habitat, nesting areas, or foraging opportunities for bald and golden eagles.

Migratory birds are designated as special status species due to their protection by the MBTA and EO 13186, Responsibilities of Federal Agencies to Protect Migratory Birds. EO 13186 clarifies the responsibilities of federal agencies to consider the effects of agency actions on birds listed under the MBTA. Migratory birds could potentially stop over or nest within stands of TAP-eligible trees. However, stands of monocultural TAP-eligible trees represent relatively low-quality habitat with less forage and



cover when compared to native forests. Additionally, TAP-eligible stands would have recently experienced a natural disaster, which could include floods, storms, or disease. Dead or dying tree stands have less extensive leaf cover, potentially reducing the quality of available habitat. While individual migratory birds may temporarily stop over or could potentially nest within stands of TAP-eligible trees, it is considered likely that the number of migratory birds occurring within potential project sites would be minimal.

### 3.2.2 Environmental Consequences

This section describes the potential environmental effects that could occur to biological resources as a result of each alternative.

#### 3.2.2.1 Proposed Action Alternative

Under the Proposed Action Alternative, effects to biological resources would be primarily associated with site preparation and debris removal, the removal of damaged trees, the application of chemicals (e.g., pesticides) and/or nutrients (e.g., fertilizers), and temporary disturbance within and immediately surrounding project sites due to rehabilitation activities. Due to the variable nature of natural disasters and the voluntary nature of TAP participation, it is not possible to know the extent and number of producers that would apply for TAP assistance each year.

##### *Vegetation*

Under the Proposed Action Alternative, only affected TAP trees, bushes, and vines grown in orchards or farms could be removed from individual project sites. Eligible TAP trees, bushes, and vines could be removed on a maximum of 1,000 acres annually per producer under the Proposed Action Alternative. In the event of natural disasters, many removed trees are anticipated to be dead or dying. However, in the case of an outbreak of plant disease or pests, impacted trees may be removed depending on the severity of infection, the possibility for crop damage, and the capacity for spread. As the Proposed Action Alternative would only remove cultivated, TAP-eligible trees, there would be **no effects** on local native plant communities. In the case of plant disease or pests, the removal of impacted trees could possibly slow or reduce the outbreak by removing infected host plants. Crop losses due to plant pathogens that did not originate in the U.S. are estimated to cost \$21 billion dollars per year (USDA, 2021b). Impacted trees would be handled and removed according to all relevant state and local laws and requirements to prevent the inadvertent spread of any pathogens or pests. The timely removal of impacted trees could prevent further damage to other TAP-eligible crops in the vicinity of individual project sites. The potential prevention of disease or infestation spreading to uninfected tree stands could have **direct, beneficial, minor, long-term, and local** effects on vegetation.

TAP funding could include activities that would lead to the reestablishment of a damaged stand, which could include the application of chemicals and nutrients, the planting of new seedlings or cuttings, and the implementation of tree protection for replanted trees. In most instances, it is anticipated that TAP crops would be replanted on the same land where losses occurred. If necessary, the application of herbicides to the project area would suppress weeds to allow for the growth of the desired crop. This could lead to adverse effects on any native plants present in the individual project sites or in the surrounding areas. However, TAP activities would occur in orchards or farms used for agricultural production where native plant communities are largely heavily degraded or have been previously removed. Additionally, the reestablishment of the damaged stand, although cultivated, would return the land to its former use and would reestablish the previously existing plant community. There may be cases where TAP crops are established on unused fields that have undergone ecological succession and contain native grasses, shrubs, and woody vegetation. For those sites, site preparation activities for TAP crops

would result in the removal of native vegetation. However, most plants would likely be common to their respective regions, and it is not anticipated that vegetation control at individual sites would cause any lasting effects on regional plant communities. Therefore, the application of herbicides and the control of weeds could have **direct, adverse, negligible to minor, short-term, and local** effects on any native vegetation potentially located in the area. Plant communities in early successional areas can also consist largely of invasive vegetation. For these sites, the removal of invasive species could have **direct, beneficial, negligible, short-term, and local** effects on plant communities. The reestablishment of the damaged tree stands would have **direct, beneficial, negligible, long-term, and site-specific** effects on vegetation.

Project activities could also require the use of heavy equipment to remove impacted trees or other debris. Heavy equipment could cause short-term disturbance to ground cover, grasses, and other low vegetation that could potentially be present in adjacent areas immediately beyond the area of rehabilitation. Repeated disturbance of vegetation (e.g., due to vehicle passes) during rehabilitation activities could potentially damage and destroy any grasses or ground cover, if present. Additionally, removal activities could create disturbed conditions that would be susceptible to the establishment and spread of invasive species within a project site. The use of heavy equipment could also potentially spread invasive plant species directly to individual project sites. However, the goal of activities would be to successfully re-introduce or reestablish the TAP-eligible crops to the project site. Thus, invasive species would likely be controlled as necessary to ensure successful rehabilitation. Therefore, the use of heavy equipment and the spread of invasive species could have **direct, adverse, negligible, short-term, and local** effects on vegetation.

### *Wildlife*

Under the Proposed Action Alternative, effects to wildlife would be primarily associated with site preparation and debris removal, the removal of impacted trees, the application of chemicals (e.g., pesticides) and/or nutrients (e.g., fertilizers), and temporary disturbance within and immediately surrounding project sites due to rehabilitation activities.

Site preparation activities, the removal of impacted trees, and human presence could cause adverse effects on resident wildlife, such as displacement of and disturbance throughout the duration of project activities. Disturbance would be temporary and could potentially result in the displacement of wildlife within and in the immediate vicinity of individual project sites while humans or equipment are present. However, any displacement of wildlife is not likely to increase their energy expenditure or resource competition outside of the range of natural variation.

Additionally, changes in available habitat within project areas over the short- and long-term could affect wildlife due to the removal of impacted trees and the introduction of seedlings and saplings. Existing project sites are anticipated to largely consist of monoculture farms and fields that have experienced damage due to a natural disaster. These sites are expected to contain disturbed habitats inhabited by few native plant species, thus providing relatively minimal resources to wildlife in the area. Therefore, the removal of impacted trees and the replanting of new seedlings would have relatively small effects on wildlife species. However, there may be instances where TAP crops are established on unused fields that have undergone the process of ecological succession to some extent and contain native grasses, shrubs, and woody vegetation. These sites would provide more forage and cover for wildlife species in the area. Site preparation and removal activities would prevent species from using any resources at the site over the long term due to the destruction or alteration of habitat. However, effects are not expected to be widespread as affected species would likely move into nearby suitable habitats. Therefore, site preparation and tree removal activities would have **direct, adverse, negligible to minor, long-term, and local** effects on wildlife.

TAP activities could also include the application of chemicals, pesticides, and nutrients along with the use of heavy equipment to reestablish or rehabilitate crops. The use of heavy equipment could increase erosion through ground disturbance and soil detachment. Uncontrolled erosion during rehabilitation activities could lead to the escape of sediment, excess pesticides, fertilizers, or other contaminants from the site, which could adversely affect aquatic wildlife (and potentially the birds and mammals that feed on them such as kingfishers and racoons) in downstream surface waters by increasing total suspended solids or by facilitating the transfer of contaminants bound to sediment particles. However, projects would likely take place in farming regions that experience a regular baseline of pesticide and fertilizer use. While chemicals and nutrients may be used in higher quantities to reestablish TAP crops, the increase would not be anticipated to be substantially larger than the baseline. Additionally, the screening criteria in this Draft PEA include a requirement that individual project sites would not occur within a 100-foot buffer surrounding bodies of waters or wetlands. Therefore, erosion and the application of chemicals and pesticides would have **direct, adverse, negligible, short-term,** and **local** effects on aquatic wildlife.

### *Special Status Species*

According to the screening criteria defined for this Draft PEA, projects would not occur in designated critical habitat. However, it is possible that TAP projects would occur on individual sites that could be located within the ranges of T&E species, especially for migratory species or species that have large ranges. Individual projects would review the USFWS IPaC online database to determine if any ESA-listed species are present in the vicinity of the potential site. TAP activities, such as site preparation, impacted tree removal, and chemical application could potentially affect special status species should any occur in the immediate vicinity of the site. However, project sites are expected to largely consist of orchards or farms used for commercial agricultural production that provide little habitat or resources for special status species. Should a TAP project site occur near habitats that may support T&E species or in the vicinity of designated critical habitat, FSA would conduct further site-specific documentation and may be required to initiate consultation with USFWS. Site-specific surveys may be required to ensure that any potential effects are minimized.

Bald and golden eagles could occur in the vicinity of individual project areas but are unlikely to forage regularly or nest within a project site due to the low quality of habitat. No project site would contain trees large enough to contain a bald or golden eagle nest. Additionally, the existing farms, orchards, or unused fields would represent relatively low-quality habitat that would not be used regularly, if at all, for foraging eagles. Therefore, the Proposed Action Alternative would have **no effects** on bald or golden eagles.

Although stands of monocultural TAP-eligible trees represent relatively low-quality habitat, migratory birds could potentially occur or nest within stands of TAP-eligible trees. Site preparation activities could temporarily displace migratory birds while humans or equipment are present and active, but the disturbance would not increase migratory bird energy expenditure or resource competition outside of the range of natural variation. Migratory birds may use dead or dying trees as habitat for feeding, nesting, or loafing. The removal of impacted trees would adversely affect any migratory birds potentially nesting within the project area. Where possible, tree removal would be scheduled outside of the nesting season of migratory birds. However, delaying the removals of impacted trees would not always be possible due to the unpredictable timing of natural disasters and the need for an immediate response, especially when considering outbreaks of pests or plant disease. However, most farms and orchards actively manage trees that represent low-quality habitat for migratory birds. Additionally, some producers use exclusion nets to protect TAP-eligible crops from foraging birds, which would prevent migratory birds from nesting within those stands entirely. Any displaced birds would be anticipated to relocate to nearby habitat. FSA would require an appropriate buffer around active nests, if any are found, to protect them from disturbance (Maine DOT, 2021). Therefore, the Proposed Action Alternative would have **direct, adverse, minor** to

**moderate, short-term, and site-specific** effects on migratory birds due to the removal of impacted trees and disturbance due to noise and activity during site preparation activities.

### 3.2.2.2 No Action Alternative

Under the No Action Alternative, potential effects to biological resources would be similar to those discussed under the Proposed Action Alternative. TAP would continue to provide assistance to producers under existing conditions, which would involve actions similar to those detailed in Section 1.5 such as site preparation and debris removal, pruning and/or removal of damaged trees, and the application of chemicals and nutrients required to reestablish crops. Under the No Action Alternative, TAP funding could be issued for the implementation of stumping activities under the existing site-specific environmental review procedure. Additionally, growers seeking TAP assistance to clear greater than 15 acres would need to complete an EA or EIS under the existing site-specific environmental review process. Effects to biological resources would be **direct, adverse and beneficial, negligible to moderate, short- and long-term, and site-specific to local**, depending on the individual resource.

## 3.3 WATER RESOURCES

This section describes the affected environment for water resources, which includes water quality, stormwater, groundwater, floodplains, and wetlands.

### 3.3.1 Affected Environment

TAP provides assistance to producers for the rehabilitation or replanting of a variety of trees, bushes, and vines on farms or orchards throughout the U.S. Commercial orchards and farms growing TAP-eligible crops often use various water resources for irrigation purposes. **Table 3.3-1** displays information from USDA’s 2018 Irrigation and Water Management Survey, which provides data relating to on-farm irrigation activities. This survey is conducted every five years; the 2023 survey data were not yet available during the development of this Draft PEA. The table displays the total number of acres that were irrigated, and the average amount of water applied per acre for selected TAP-eligible crops in 2018, including orchards, vineyards, and nut trees. Additionally, the table displays the region-specific data for the five regions containing the most acres of irrigated TAP-eligible crops.

**Table 3.3-1. Total Acres of Irrigated Farms for Selected Water Resource Regions in 2018**

Water Resource Region	Irrigated Acres of Orchards, Vineyards, and Nut Trees	Average Amount of Water Distributed Per Acre (Acre-Feet)	Approximate Total Amount of Water Distributed (Acre-Feet)
Region 18 California	3,696,321	2.5	9,240,803
Region 03 South Atlantic-Gulf	540,314	1.0	540,314
Region 17 Pacific Northwest	474,713	2.3	1,091,840
Region 15 Lower Colorado	94,269	5.0	471,345
Region 13 Rio Grande	65,622	3.7	242,801
<b>Total (All Regions)</b>	<b>5,021,860</b>	<b>2.4</b>	<b>12,052,464</b>

Source: USDA, 2019a

### **3.3.1.1 Water Quality**

Water quality describes the condition of water, including chemical, physical, and biological characteristics, usually with respect to its suitability for a designated use. The most common standards used to monitor and assess water quality define the health of ecosystems, safety of human contact, extent of water pollution, and condition of drinking water. Water quality standards are established by state, territorial, authorized Tribal, or federal laws and are approved by the U.S. Environmental Protection Agency (EPA) to create the basic structure for protecting water resources. These standards consist of designated beneficial uses of surface water such as recreation, drinking water, and agriculture. Water quality standards form a legal basis for controlling pollutants entering the waters of the U.S.

The CWA requires the EPA to develop criteria for surface water quality that accurately reflect the latest scientific knowledge on the effects of pollutants on human health and the environment (EPA, 2024b). Surface waters include lakes, rivers, streams, and reservoirs. Each surface water body is connected to a watershed, which is the area of land that drains all the streams and rainfall to a common outlet such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel (USGS, 2019).

Section 303(d) of the CWA requires each state to provide a program to monitor the quality of their waters and a list of waters that do not meet the state water quality standards. The waters not meeting their intended uses are included on the Section 303(d) list of impaired waters. Impaired waters are defined by the EPA as those surface waters with levels of pollutants that exceed state water quality standards (EPA, 2024c). States must establish total maximum daily loads (TMDLs) of pollutants for those waters which are included on the impaired list to define how the state plans to attain water quality standards.

Existing orchards and farms growing TAP-eligible crops are likely to apply chemicals to prevent and suppress various pests and diseases. Chemical inputs from agriculture, such as pesticides, including herbicides, fungicides, and insecticides, disperse through ground cover and can eventually reach local surface water and groundwater. These chemicals can be toxic to the environment in high concentrations and are therefore regulated by the EPA. As an example, in 2023, surveyed apple growers applied fungicides to 88 percent of acres, insecticides to 85 percent of acres, and herbicides to 40 percent of acres (USDA, 2024a). To varying degrees, most farms growing TAP-eligible crops would be expected to have a baseline level of pesticide usage.

### **3.3.1.2 Stormwater**

Stormwater is the runoff of water when precipitation falls on impervious surfaces such as roads, roofs, and sidewalks and is a potential source of sediments and other contaminants that could degrade downstream receiving waters. Impervious surfaces prevent rainwater from infiltrating into the soils, and as a result, stormwater runs off at higher rates and volume as compared to undeveloped sites. Stormwater is not considered further in this Draft PEA because no TAP activities include the modification or addition of impervious surfaces on project sites.

### **3.3.1.3 Groundwater**

Groundwater consists of subsurface hydrologic resources that are often used for drinking water, agricultural irrigation, and industrial applications. Groundwater is stored in natural geologic formations called aquifers. Groundwater is typically described in terms of its depth from the surface, aquifer or well capacity, water quality, surrounding geologic composition, and recharge rate. Certain aquifers have been designated as sole source aquifers. These aquifers supply at least 50 percent of the drinking water for their respective service areas, and these service areas have no reasonably available alternative drinking water sources should the aquifer become contaminated (EPA, 2023a). Under the sole source aquifer

program, orchards and farms that draw groundwater from sole source aquifers and are fully funded through state, local, or private sources are not subject to EPA review. The sole source aquifer program requires review for projects that receive federal assistance, such as a private farm receiving funding through the TAP program.

#### **3.3.1.4 Floodplains**

In accordance with EO 11988, Floodplain Management, federal agencies must avoid adverse effects associated with the occupancy and modification of floodplains. The Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program, which aims to reduce the effects of flooding on private and public structures. The standard for flooding used by the National Flood Insurance Program is called the base flood. The base flood is defined as a flood having a one percent chance of being equaled or exceeded in any given year, which is also referred to as the "100-year flood" (FEMA, No Date). Federal agencies must review FEMA flood insurance rate maps (FIRMs) or other available floodplain maps to determine whether a project site is in or could potentially impact 100-year floodplains. FIRMs are generally created for developed communities and densely populated areas with flood potential and are not typically available for agricultural areas. If a FIRM is not available for a particular area, flood hazard boundary maps should be reviewed to get an indication of whether the site is clearly outside of the 100-year floodplain or whether the site may be in a flood prone area.

#### **3.3.1.5 Wetlands**

Wetlands are defined by the U.S. Army Corps of Engineers (USACE) and the EPA as areas which are sufficiently inundated or saturated by surface or groundwater to support a prevalence of vegetation adapted to saturated soil conditions (USACE, No Date). Wetlands can be associated with groundwater or surface water and are identified based on specific soil, hydrology, and vegetation criteria defined by USACE. Under the screening criteria developed for use of this Draft PEA, all project sites would be located at least 100 feet from any surrounding wetlands.

### **3.3.2 Environmental Consequences**

This section evaluates effects to water resources that may result from implementation of the Proposed Action Alternative and the No Action alternatives. The assessment of effects on water resources in the area of analysis considers how the alternatives would affect the quantity, quality, usage, location, and other characteristics of water resources as applicable.

#### **3.3.2.1 Proposed Action Alternative**

Under the Proposed Action Alternative, effects to water resources would result from erosion associated with site preparation and debris removal, the usage of water for the irrigation of reestablished crops, and the application of chemicals (e.g., pesticides) and/or nutrients (e.g., fertilizers). Due to the variability of natural disasters and the voluntary aspect of TAP participation, the number of producers that would apply for TAP assistance each year is not known. Thus, the magnitude and scale of potential effects is variable and not fully predictable.

#### *Water Quality*

Under the Proposed Action Alternative, site preparation and rehabilitation activities under TAP could include the operation of heavy machinery and the removal of impacted TAP-eligible trees, bushes, and crops. The operation of heavy machinery and the removal of impacted trees (including the roots) could disturb soils, which could cause or exacerbate soil erosion. Soil erosion, especially in conjunction with

baseline runoff conditions on project sites, could lead to the deposition of sediments into surface waters. During active rehabilitation work, TAP activities would be expected to result in a slight increase in the amount of soil erosion and sedimentation in nearby water sources. This increase is expected to be temporary and limited to periods of active equipment use. However, TAP activities would contribute overall minimal effects on erosion over the long term as new seedlings or saplings would be planted, which would minimize the amount of sediments entering nearby surface waters by establishing new roots to stabilize the soil. Therefore, due to erosion, the Proposed Action Alternative would have **direct, adverse, minor, short-term, and local** effects on water quality. Due to the planting of TAP trees and the stabilizing effects of their roots, the long-term effects of erosion on water quality would be **direct, adverse, negligible, long-term, and local**.

Under this alternative, it is likely that producers would use various insecticides, pesticides, and fertilizers to establish the new crops. Project activities could introduce contaminants to surface waters. However, the screening criteria for this Draft PEA, as defined in Section 2.2.1, specifies that project sites would not occur within a 100-foot buffer from surrounding bodies of water or wetlands. Additionally, the type and quantity of chemicals used by producers would not be anticipated to vary appreciably from the baseline used by the farm before the crop was lost. Thus, any potential effects on water quality would be similar to current effects that are occurring from existing orchards and farms. All agricultural chemicals would be used according to their specific EPA regulations, and producers planting in fields near a waterbody included on the impaired waters list would adhere to all EPA-approved TMDLs developed by their respective state. Thus, project activities would be expected to have only minimal adverse effects on water quality characteristics and indicators (e.g., Total Suspended Solids, pH, dissolved oxygen, and benthic macroinvertebrate presence). If replanting occurs in a different field within a new watershed, there could be a negligible to minor increase in the agricultural chemical inputs to that watershed depending on the size of the field and the amount of chemicals used. There would be a corresponding reduction in the agricultural chemical inputs to the watershed in which the crops were lost. Therefore, the use of chemicals during rehabilitation activities would have **direct, adverse, negligible to minor, long-term, and local** effects on surface and groundwaters. Implementation of the Proposed Action Alternative would not substantially affect the existing water quality of surface and groundwaters within the area of analysis.

### *Groundwater*

Under the Proposed Action Alternative, producers could potentially draw from groundwater resources to irrigate TAP-eligible crops that are undergoing rehabilitation or reestablishment. Commercial farms seeking to reestablish crops through TAP assistance would likely draw from similar groundwater sources that supplied the existing, damaged crops. Additionally, seedlings and saplings require less water than full-grown trees, bushes, and vines (UC, 2018). Thus, farms undergoing TAP activities may initially draw slightly less water from aquifers than before TAP participation due to the lower number of full-grown crops. As the trees reestablish and grow over time, water usage would be anticipated to eventually reach or exceed pre-disaster levels. Overall, groundwater usage would not be anticipated to increase substantially from existing conditions. Thus, there would be **direct, adverse, negligible, short- and long-term, and local** effects on groundwater due to the use of groundwater for irrigation under TAP. If a project could affect groundwater and occurs within a designated sole source aquifer recharge area, TAP activities must be coordinated with the appropriate region of the EPA for producers to receive federal TAP funding, and a site-specific environmental review would be necessary.

TAP activities could include the application of various pesticides and fertilizers to establish the new crops. Pesticides and other chemicals could potentially seep into aquifers after being applied to newly planted TAP crops. However, the type and quantity of chemicals used would not be anticipated to vary appreciably from the baseline of what the farm uses before the crop was lost. All agricultural chemicals would be used

according to their specific EPA regulations. Therefore, the use of pesticides, fertilizers, and other chemicals during rehabilitation activities could have **direct, adverse, negligible, long-term, and local** effects on groundwater. Implementation of the Proposed Action Alternative would not be anticipated to substantially affect the existing water quality of groundwater within the area of analysis.

### *Floodplains*

Because of the large geographic scope of this Draft PEA and the voluntary nature of TAP participation, it is not possible to predict the location of the farms requesting assistance from the program, nor review the specific floodplains maps of areas where TAP would be implemented. Additional site-specific environmental review would take place if individual project sites would have the potential to affect 100-year floodplains, including a review of FIRMs if available. Under the Proposed Action Alternative, producers could potentially be reimbursed for replanting or reestablishing crops within the 100-year floodplain. If crops are established in an existing orchard or farm that lies within the 100-year floodplain, then there would be no new effects on floodplains. If crops are established in a new field that lies within the 100-year floodplain, producers must review local flood maps and coordinate plans with their local county office to ensure that land modifications would not affect the floodplain. The TAP program does not provide assistance for the construction of fencing, windscreens, or other structures which would be regulated within a 100-year floodplain. Therefore, the Proposed Action Alternative would have either **no effects** or potentially **direct, adverse, negligible, long-term, and site-specific** effects if a new field is planted within the 100-year floodplain.

### *Wetlands*

No TAP activities would fill, encroach on, or permanently alter wetlands. Project activities involving heavy equipment, such as equipment used for debris removal, or the application of pesticides and fertilizers could increase soil erosion on individual sites and potentially introduce small amounts of sediments and contaminants to any nearby wetlands. However, the screening criteria for this Draft PEA specifies that there would be at least a 100-foot buffer between individual project sites and any surrounding wetlands. TAP activities would likely be focused on rural sites that have a history of commercial farming. Therefore, the type and quantity of pesticides and fertilizers would not be anticipated to vary appreciably from the baseline used before the crop was lost. All agricultural chemicals would be applied according to their specific EPA regulations. The rehabilitation or replanting of TAP-eligible crops could potentially affect nearby wetlands outside of the 100-foot buffer, but any effects would not be anticipated to be substantially larger than the existing effects occurring before TAP funding. Therefore, rehabilitation activities under TAP would have **direct, adverse, negligible to minor, short-term, and local** effects on wetlands depending on the quantity of chemicals used and the proximity of wetlands from individual project sites.

#### **3.3.2.2 No Action Alternative**

Potential effects to water resources under the No Action Alternative would be similar to those discussed under the Proposed Action Alternative. TAP would continue to provide assistance to producers under existing conditions, and thus the effects on water resources would be expected to be similar to those effects under the Proposed Action Alternative. Effects on water resources would be **direct, adverse, negligible to minor, short- and long-term, and local** depending on the individual resource.

### **3.4 CLIMATE CHANGE**

Climate change is a long-term change in the average weather patterns that have come to define Earth's local, regional, and global climates (NASA, No Date-a). The long-term changes could include shifts in



temperature, precipitation, wind patterns, or other effects that occur over several decades or longer. GHGs are components of the atmosphere that trap thermal energy and contribute to climate change. GHGs absorb outgoing infrared radiation (heat) rising from the Earth's surface, which traps the thermal energy in the atmosphere and results in warming of the planet (NASA, No Date-b). GHGs, such as carbon dioxide (CO<sub>2</sub>), and methane (CH<sub>4</sub>), occur naturally in the atmosphere, but the existing, natural concentrations can be augmented by human activities, such as burning of fossil fuels. Different GHGs have different effects on climate change. Global Warming Potential (GWP) is a measure of how much energy the emissions of one ton of a gas will absorb over a given period, relative to the emissions of one ton of CO<sub>2</sub>. The larger the GWP, the more that a given gas warms the Earth compared to CO<sub>2</sub> over that time-period. GHG emissions released from human activities are widely recognized as a substantial contributing factor to climate change. Human activities have released large amounts of CO<sub>2</sub> and other GHGs into the atmosphere, causing Earth's climate to change, and potentially resulting in dangerous effects to human health and the environment, such as increasing average temperatures and rainfall (EPA, 2017).

### **3.4.1 Affected Environment**

In 2021, GHG emissions for the U.S. totaled over 6,340 million metric tons of carbon dioxide equivalent (CO<sub>2</sub>e)<sup>1</sup>. The largest source of human generated GHG emissions in the U.S. were from the burning of fossil fuels for electricity, heat, and transportation. Transportation accounted for 28 percent of the total GHGs emitted, followed by electric power (25 percent), industry (23 percent), residential and commercial (13 percent), and agriculture (10 percent) (EPA, 2023b).

GHG emissions from agriculture primarily originate from cultivating crops and raising livestock. Fuel combustion for activities such as the operation of trucks, tractors, and other farm equipment only represents approximately 6.4 percent of the overall GHG emissions from agriculture (EPA, 2023b). Within the agricultural sector, the largest contributor to GHGs is the release of nitrous oxide (N<sub>2</sub>O) through several different pathways. N<sub>2</sub>O is naturally produced in soils through microbial processes, but several agricultural activities increase the availability of mineral nitrogen in soils, which leads to direct N<sub>2</sub>O emissions at the site of a management activity. Such activities include the application of synthetic nitrogen fertilizers, the application of natural fertilizers such as livestock manure, or the drainage of organic soils (EPA, 2024d).

The changes to Earth's climate driven by increased human emissions of GHGs have widespread environmental effects, such as glacial melting, sea level rise, exacerbated flooding, and longer and more intense heat waves (USGCRP, 2018a; USGCRP, 2018b; USGCRP, 2018c). Over the long term, climate change could cause challenges for agriculture nationwide through the reduction of agricultural productivity, degradation of soil and water resources, flooding, and drought events (USGCRP, 2018a). Climate change is projected to lead to an increase in extreme precipitation events, which may lead to more severe floods. Additionally, changes to climatic extremes, such as precipitation and heat waves, may present a regionally variable risk of increased frequency and severity of flooding and drought (USGCRP, 2018b). Increasing temperatures are also projected to affect vulnerable TAP-eligible crops, such as fruit and nut trees, through the reduction of yields, although the degree of effects will vary depending on the crops and where they are grown (Kerr et al., 2017).

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<sup>1</sup> CO<sub>2</sub>e is defined as the number of metric tons of CO<sub>2</sub> emissions with the same GWP as one metric ton of another GHG.

### 3.4.2 Environmental Consequences

This section describes the potential environmental effects on and from climate change that could occur as a result of each alternative.

#### 3.4.2.1 Proposed Action Alternative

Under the Proposed Action Alternative, effects to climate change would be largely limited to the use of equipment during site preparation activities, the controlled burning of woody debris, and the application of fertilizers for the reestablishment or replanting of TAP crops. This Draft PEA would cover TAP assistance for producers throughout the U.S. Because of the large geographic scope, the sporadic nature of natural disasters, and the voluntary nature of TAP participation, it is not possible to predict the location of the lands or extent of GHG emissions from producers requesting assistance from the program.

GHG emissions would be associated with the operation of equipment, which would depend on the individual project site, and could include front-end loaders, tractors, backhoes, stump grinders, skidders, or bucket trucks. The type and amount of GHG emissions would vary depending on the types of equipment used, the fuel consumed, and the hours of operation for said equipment. It is likely that any emissions would increase with the acreage of the farms and the amount of dead or damaged crops in need of removal. After impacted crops are removed, they may be disposed through controlled burning. Controlled burning of woody vegetation would contribute CO<sub>2</sub> to the atmosphere, but the amounts would be minimal when compared to emissions from fossil fuel combustion.

In addition to the operation of equipment, the application of fertilizers would contribute to GHG emissions under the Proposed Action Alternative. Synthetic fertilizers increase the availability of mineral nitrogen, leading to increases in N<sub>2</sub>O through the microbial processes of nitrification and denitrification (EPA, 2024d). However, direct N<sub>2</sub>O emissions from croplands tend to be highest for highly fertilized crops. Additionally, TAP sites likely contain a baseline of nitrogen fertilization due to application for prior crops.

While the GHG emissions would vary from site to site, it would be anticipated that the GHG emissions from the operation of equipment, controlled burning, and the application of fertilizers would be minimal overall. As such, effects to climate change are not expected to be significant since GHG emissions associated with TAP activities would constitute a miniscule fraction of the U.S.'s annual GHG emissions and would make a negligible contribution to global climate change. Therefore, the Proposed Action Alternative would have **direct, adverse, negligible, short-term, and regional** effects on climate change.

Climate change may cause climate events, such as floods, droughts, storms, and other natural disasters, to increase in frequency and intensity across regions of the U.S. Depending on the location and intensity of disasters, any increases could potentially lead to an increase in damages to crops that would be eligible for assistance under TAP. This would likely result in more producers applying for TAP funding to undergo rehabilitation and replanting activities. TAP would continue providing assistance to producers of TAP-eligible crops that experience damages due to natural disasters, but the Proposed Action Alternative does not include funding for producers to take proactive climate measures, such as replacing existing crops not impacted by natural disaster with those that use less water or fertilizer. Without proactive climate measures, producers would need to experience losses of TAP-eligible crops before being eligible for TAP funding. Therefore, climate change would likely cause **direct, adverse, negligible to moderate, long-term, and regional** effects under the Proposed Action Alternative.

#### 3.4.2.2 No Action Alternative

Under the No Action Alternative, FSA would continue to administer TAP disaster assistance under existing conditions. TAP would provide nationwide assistance to reimburse eligible producers for allowable

expenses related to reestablishing commercial tree, bush, and vine crops lost to natural disasters. Under current conditions, FSA would develop environmental documentation for TAP as needed, such as preparing ESWs or EAs to document the effects of implementing TAP for individual disasters. Climate events, such as floods, droughts, storms, and other natural disasters, may increase in frequency and intensity across regions of the U.S. due to climate change. Applicants for TAP assistance may experience potentially lengthy process times associated with environmental compliance and consultation efforts, especially if there is an increased number of applicants due to more intense disaster events. Under the No Action Alternative, effects to climate change and effects from climate change would be similar to those effects under the Proposed Action Alternative. Therefore, effects to climate change under the No Action Alternative would be **direct, adverse, negligible, short-term, and regional**. Climate change would likely cause **direct, adverse, negligible to moderate, long-term, and regional** effects under the No Action Alternative

### **3.5 CULTURAL RESOURCES**

This section describes the affected environment and environmental consequences to cultural resources under the Proposed Action Alternative and the No Action Alternative.

#### **3.5.1 Affected Environment**

Cultural resources are associated with the human use of an area and may include archaeological sites, locations of anthropologic interest, or historic properties associated with the past and present use of an area. A cultural resource can represent past cultures or modern-day cultures, and can be composed of physical remains, intangible traditional use areas, or an entire landscape. Buried cultural resources are usually referred to as archeological sites.

The NHPA, as amended, sets forth national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the NHPA requires federal agencies to consider the effects of their activities on such properties. As part of this process, federal agencies are required to consult with SHPOs, federally recognized Native American Tribes and Native Hawaiian Organizations (NHOs) with or without a Tribal Historic Preservation Officer, representatives of local government, the public, and other interested groups (36 CFR 800.3).

The Section 106 process helps ensure that the presence of historic properties, and possible effects to these properties, are considered as early as possible in the federal project planning process. Implementing regulations for Section 106 at 36 CFR 800 (Protection of Historic Properties) requires the responsible federal agency to determine the level of effort to identify historically significant cultural resources in the area of potential effect (APE) of the undertaking. The APE is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist” (36 CFR 800.16[d]). Under the activities listed in this Draft PEA, the APE would be defined for individual project sites as the affected crop stands where ground-disturbing TAP-funded activities would occur and their immediate vicinity. Since the number and location of potential farms applying for TAP assistance in the U.S. is unknown, the APE for specific project sites would be identified as necessary during site-specific review. Under the screening criteria for this Draft PEA, projects would be limited to ground disturbance to the depth of previous disturbance, with the exception of FSA-approved stumping in specific cases as described in Section 2.2.2.

In the U.S., agricultural areas were used historically by Native American Tribes and/or early American settlers and could potentially contain archaeological and historic resources such as buildings or building foundations, farming and other artisan tools (e.g., tannery or blacksmithing tools), houseware, or other

common historic artifacts. However, TAP-funded projects covered under this Draft PEA would take place on existing disturbed, actively-managed commercial agricultural land that has been affected by a natural disaster. Sites applying for TAP funding would have previously undergone the extensive standard activities for the establishment and maintenance of TAP-eligible crops, such as orchard preparation, tilling, and planting. The disturbance from previous agricultural management and preparation could have destroyed archaeological deposits that may have been present on individual project sites. Additionally, TAP-eligible sites would have experienced an eligible natural disaster, which may include structural- and ground-disturbing events such as earthquakes, hurricanes, or floods. While archaeological or historic resources could occur on individual TAP project sites, it is considered unlikely that these resources would be intact or in their original context.

### **3.5.2 Environmental Consequences**

This section describes potential environmental effects to cultural resources that could occur as a result of each alternative.

#### **3.5.2.1 Proposed Action Alternative**

Under the Proposed Action Alternative, no TAP activities would have the potential to directly alter, damage, or remove structures or buildings. Any historic buildings that may be located on properties receiving TAP funding would be unaffected by project activities. Any historic buildings, if present, within the immediate vicinity of project sites would not be expected to experience any viewshed effects. Under the Proposed Action Alternative, producers could remove damaged or destroyed crops and replace them with new TAP-eligible crops. These activities would not introduce new visual elements to the landscape and would not attract attention, dominate the visual landscape, or otherwise affect the character of the historic properties that could be in the vicinity. Therefore, TAP activities under the Proposed Action Alternative would not result in any effects on historic buildings.

Under the screening criteria for this Draft PEA, projects would be limited to ground disturbance to the depth of previous disturbance, with the exception of stumping. Most TAP activities, such as site preparation, the clearing of up to 1,000 acres of affected TAP-eligible crops, debris removal, and the application of chemicals and/or nutrients would not result in any ground disturbance below the limit of previous disturbance and, therefore, are not likely to cause any effects to underground archaeological resources. Additionally, cultural resources would not likely be affected under the Proposed Action Alternative because they are unlikely to be present on land actively managed to produce TAP-eligible crops. There would be **no effect** on cultural resources from most TAP activities because TAP sites are not likely to contain cultural resources, and there would be no ground disturbance beyond the depth of previous disturbance.

As described in Section 2.2, TAP funds could be issued for the implementation of stumping activities, which would involve ground disturbance. Stumping activities would remove stumps and their associated root systems, which can extend several feet deep into the ground. Outside of specific circumstances, stumping and the associated ground disturbance would need to undergo site-specific analysis and Section 106 consultation with the relevant SHPO and/or THPOs in accordance with 36 CFR 800.4. FSA would pursue additional environmental review and consultation to identify any potentially significant archaeological resources that may be affected by TAP-funded activities.

As described in Section 2.2.2, some TAP-eligible crops are regularly rotated, which involves the cyclical removal of trees, stumps, and roots and the replanting of new trees. Individual project sites that have a history of rotating TAP-eligible crops would have already experienced ground disturbance to a greater depth than the original plantings due to the removal of previous trees and their full-grown root systems.

For individual sites with prior disturbance due to rotating TAP-eligible crops, any potential archaeological resources would have likely been damaged or destroyed during prior cycles of tree removals. Therefore, stumping on these specific sites would not result in any substantial new ground disturbance and would not likely result in any new effects on cultural resources. For this reason, stumping on sites with a history of stumping or that experience cyclical crop rotation would not require consultation with the relevant SHPO and/or THPOs prior to the implementation of TAP-funded activities under the Proposed Action Alternative.

In the unlikely scenario that cultural resources were to be discovered during ground-disturbing activities, FSA would follow the steps outlined in the FSA Unanticipated Discovery Plan for Cultural Resources (FSA, 2024a), or proceed according to relevant discovery plans identified during site-specific consultation with the relevant SHPO and/or THPO. All earth-moving activity within and around the immediate discovery area would cease, and that area would be avoided until a qualified archaeologist can assess the nature and significance of the find. Although unlikely, if archaeological resources are discovered, the effects would be **negligible to moderate** in magnitude depending on the importance of the resource and could be considered either **adverse** or **beneficial**. The effect could be beneficial if the discovery led to the identification of a historically or culturally important resource. The effect would be adverse if the resource were permanently damaged or destroyed in the process of implementing TAP-funded activities; however, measures would be taken to protect the resource in the event of discovery. **Direct** effects would be **permanent** if the resource is irreparably damaged or destroyed during stumping and **site-specific** depending on the identity, importance, and condition of the specific resource, particularly if the resource is intact or repairable. Major, permanent effects are unlikely to occur because TAP activities would not involve substantial new ground disturbance and cultural resources, if present, would likely already be disturbed or damaged.

### 3.5.2.2 No Action Alternative

Under the No Action Alternative, FSA would continue to administer TAP disaster assistance under existing conditions. Applicants for TAP assistance may experience lengthy process times associated with environmental compliance and SHPO and/or THPO consultation efforts. Under the No Action Alternative, stumping would require site-specific environmental review regardless of whether the site has previously been disturbed.

Cultural resources would likely be unaffected under the No Action Alternative since most TAP activities do not involve any new ground disturbance below the previous level of disturbance and any cultural resources that are present would not likely be in their original context and would potentially be damaged or destroyed from previous farming practices. There would be **no effect** on cultural resources from most TAP activities because TAP sites are not likely to contain cultural resources and there would be no ground disturbance beyond the level of previous disturbance. Any TAP activities that involve ground disturbance beyond the level of prior disturbance would need to undergo site-specific environmental review and Section 106 consultation with the relevant SHPO and/or THPOs in accordance with 36 CFR 800.4. FSA would pursue additional environmental review and consultation to identify any potentially significant archaeological resources that may be affected by TAP-funded activities.

In the unlikely event that cultural resources are present onsite and located within the levels of previous ground disturbance, these resources would likely already be damaged from previous routine ground disturbance activities. Therefore, in the unlikely scenario that cultural resources were to be discovered during TAP-funded activities, there would be **direct, beneficial and adverse, negligible to moderate, permanent, and site-specific effects** on cultural resources. Work would stop immediately and all earth-

moving activity within and around the immediate discovery area would cease and that area would be avoided until a qualified archaeologist can assess the nature and significance of the find.

### **3.6 SOCIOECONOMICS**

This section describes the affected environment and consequences to socioeconomics from the Proposed Action Alternative and the No Action Alternative.

#### **3.6.1 Affected Environment**

The analysis of socioeconomic effects identifies those aspects of the social and economic environment that are sensitive to changes and that may be affected by the implementation of TAP-funded rehabilitation projects under this Draft PEA. This section presents an overview of U.S. commercial growers of TAP-eligible trees, bushes, and vines; the socioeconomic challenges facing TAP-eligible growers; and the socioeconomic implications of TAP funding under this Draft PEA.

##### **3.6.1.1 National Agriculture Economic Trends**

As of 2022, there were 1.89 million farms in the U.S., 98 percent of which are family-operated and provide 88 percent of total U.S. agricultural production value (USDA, 2024b; USDA, 2020c). The total number of farms has continued to decline since the 1935 peak of 6.8 million farms due to record-breaking farm production costs coupled with low prices received for farm products (Committee on Agriculture, Nutrition, and Forestry, 2023). Additionally, total U.S. net farm income was projected to decrease more than 25 percent in 2024 from 2023, continuing the decline experienced from 2022 to 2023 (USDA, 2024c).

However, despite the overall U.S. agricultural economic decline, family-operated farms are generally not classified as low-income or low-wealth, with most farms having median income at or above the U.S. median income for households (USDA, 2020c). Additionally, while the number of U.S. farms is on the decline, average farm size is on the rise, and a majority of U.S. agricultural production value comes from larger family farms, which compose a smaller proportion of the total number of family farms; most family farms in the U.S. are small to midsize (USDA, 2020c; USDA, 2023c).

##### **3.6.1.2 TAP-Eligible Producers General Economic Trends**

According to the USDA triannual Nursery and Christmas Tree Production Survey (NCTPS), the 17 largest nursery-producing (including Christmas tree farms) states are Alabama, California, Connecticut, Florida, Georgia, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Virginia, and Washington (USDA, 2024d). The NCTPS estimates the number of nursery producers by state, the nursery production area, and the number of plants sold and gross sales by plant category across the 17 largest nursery-producing states. The results of the NCTPS are published in *Nursery Crops Summary*; the most recent available publication is from 2007 for the 2006 survey year (USDA, 2007). Note that this dataset, in addition to being 18 years old, also includes some commercial crops that are not TAP-eligible, such as ornamental grasses, palm trees, and vegetable and strawberry transplants. These data are included in this Draft PEA as a broad proxy for the existing economic condition of the TAP-eligible crop farming community. In general, the economic condition of TAP-eligible crop growers would be expected to follow the overall U.S. agricultural trends described above.

In 2006, there were 10,618 nurseries across 17 states surveyed. Of those, 7,292 had gross sales of \$10,000 or more, and the remaining 3,326 nurseries had gross sales totaling \$100,000 or more. The states with the highest number of nurseries were Florida, 1,307; Oregon, 878; North Carolina, 707; and California, 669. The 7,292 nurseries with gross sales of \$10,000 or more reported a total production area of 471,106 acres, or approximately 64.6 acres per nursery.

### 3.6.1.3 TAP Disbursements Summary 2020-2024

TAP funding is distributed to eligible growers who have experienced the loss of at least 15 percent of their commercial crop(s) due to a natural disaster, resulting in varying levels of financial loss based on the type(s) and quantity of crop(s) lost, the type and severity of the natural disaster, and the economic condition of the farm at the time of the natural disaster. In general, growers who apply for TAP funding are likely in a position of higher economic risk than they normally would be due to crop loss and other damage (e.g., to farm equipment or structures) related to the TAP-triggering natural disaster.

From 2020 through FY24, TAP provided a total of \$58 million to 1,922 TAP-eligible growers. See **Table 3.6-1** below for a summary of TAP payments from 2020 through 2024. The most common crops funded under TAP from 2019 through 2023 were citrus trees, nursery plants, cherry trees, and blueberry bushes.

**Table 3.6-1. Summary of TAP Payments Disbursed from 2020 through 2024**

Year	Total Number of Producers	Total Payment Amount	Average Payment Per Producer	Top Three States with the Highest Payment Amount (Listed in Descending Order)
2020	524	\$9,233,726.00	\$17,621.61	Florida, California, Puerto Rico
2021	359	\$10,608,838.13	\$29,551.08	California, Florida, Texas
2022	347	\$11,448,691.05	\$32,993.35	Texas, California, Florida
2023	511	\$14,462,849.33	\$28,303.03	Florida, Tennessee, Puerto Rico
2024	181	\$12,393,650.95	\$68,473.21	Florida, Georgia, California
<b>Total:</b>	<b>1922</b>	<b>\$58,147,755.46</b>		

Source: FSA, 2024b

### 3.6.2 Environmental Consequences

This section describes potential socioeconomic effects that could occur as a result of each alternative.

#### 3.6.2.1 Proposed Action Alternative

Under the Proposed Action Alternative, funding would be issued under TAP using the proposed screening criteria, which would expedite the environmental review process for eligible growers. Funds could be issued for the implementation of stumping activities that meet the requirements described in Section 2.2.2, as well as for the site preparation and clearing of up to 1,000 acres of affected TAP-eligible crops. Therefore, TAP applicants may experience reduced environmental review processing times under the Proposed Action Alternative relative to the existing TAP, potentially increasing beneficial effects.

Under the Proposed Action Alternative, **direct** socioeconomic effects would occur to growers who receive TAP funds and would be **site-specific**, limited to the farm itself. **Indirect** socioeconomic effects would occur to the farm’s surrounding community, which benefits from the farm’s products and participation in the local economy and could be **local** to **regional** depending on the farm’s region of socioeconomic influence. **Direct** and **indirect, beneficial** socioeconomic effects under the Proposed Action Alternative could range from **minor** to **moderate** depending on the level of rehabilitation success (including stumping). For example, unsuccessful rehabilitation (e.g., stumping fails to reduce the spread of infection among trees) could have a minor beneficial effect because the TAP applicant would still benefit financially from the receipt of TAP funding, while the successful rehabilitation or replacement of some or all damaged

crops could have a moderate beneficial effect. Beneficial effects could range from **short-term** to **long-term** depending on the longevity of the rehabilitated or replacement crops. For example, if replacement crops experience damage or mortality shortly after planting, the beneficial effects from TAP-funded rehabilitation would only be experienced by the grower over the relatively short term, lasting until just after rehabilitation activities are completed. Finally, beneficial socioeconomic effects could be **local** to **regional** depending on the overall success of rehabilitation and on the farm's region of socioeconomic influence.

### 3.6.2.2 No Action Alternative

Under the No Action Alternative, funding would be issued to eligible growers under the existing TAP program. Stumping and the implementation of TAP activities on greater than 15 acres would require site-specific environmental review; therefore, TAP applicants may continue to experience lengthy environmental review processing times under the No Action Alternative, potentially delaying rehabilitation activities and reducing beneficial socioeconomic effects. As a result, potential socioeconomic effects would be similar to those under the Proposed Action Alternative, but with reduced beneficial effects. Therefore, potential socioeconomic effects under the No Action Alternative would be **direct** and **indirect**, **beneficial**, **minor to moderate**, **short- to long-term**, and **site-specific** to **regional**.

## 3.7 ENVIRONMENTAL JUSTICE

This section interprets the affected environment for EJ to include identification of any disproportionately high and adverse effects on minority communities and low-income communities along with actions that may mitigate those effects.

### 3.7.1 Affected Environment

EPA defines "environmental justice" as "the just treatment and meaningful involvement of all people regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other federal activities that affect human health and the environment" (EPA, 2024e). The goal of "just treatment" is not to shift risks among different populations but to protect people from disproportionate and adverse human health and environmental risks, hazards, and effects, including those related to climate change; from cumulative environmental (and other) effects; and from structural or systemic barriers such as racism. Additionally, EJ means that all people should have equitable access to a healthy, sustainable, and resilient environment (EPA, 2024e). Under NEPA, the EJ analysis seeks to identify potential disproportionately high and adverse effects on minority communities and low-income communities and to identify alternatives that may mitigate these effects (EPA, 1998).

Several EOs contain federal agency directives pertaining to EJ:

- EO 12898, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires that federal agencies consider as a part of their action any disproportionately high and adverse human health or environmental effects to minority populations and low-income populations. federal agencies are required to ensure that these potential effects are identified and addressed.
- EO 14030, Climate Related Financial Risks, requires federal investments to account for climate-related financial risks and address any disparate effects on disadvantaged communities and communities of color.



- EO 14008, Tackling the Climate Crisis at Home and Abroad, requires agencies to consider measures to address and prevent disproportionate and adverse environmental and health effects on communities, including the cumulative effects of pollution and other burdens like climate change. EO 14008 established the Climate and Economic Justice Screening Tool, which allows agencies to identify disadvantaged communities who are marginalized, underserved, and overburdened by pollution.

### 3.7.1.1 Socially Disadvantaged Farmers and Ranchers

Socially Disadvantaged Farmers and Ranchers (SDFRs) are farmers or ranchers who are members of a socially disadvantaged group. The term ‘socially disadvantaged group’ is statutorily defined in two separate ways: one definition includes race, ethnicity, and gender (7 U.S.C. § 2003(e)(2)), and the second definition includes only race and ethnicity (7 U.S.C. § 2279(a)(6)) (**Table 3.7-1**). Therefore, SDFR eligibility for USDA farm support programs depends on which definition is cited for a particular program. The most cited definition includes race and ethnic groups. SDFRs may belong to the minority groups defined in Section 3.2.1.2 below, as well as to refugee groups, immigrant groups, and groups determined by the Secretary of Agriculture, USDA-issued regulations, or other statutory definitions (**Table 3.7-1**).

Note that available data on SDFRs may overlap with data for some or all SDFR sub-groups because multiple group definitions may apply to one individual farmer or rancher (e.g., a woman Beginning Farmer or Rancher [BFR], or a Veteran Farmer or Rancher [VFR] who is a member of a minority group) (CRS, 2024).

In 2022, there were 1,110,546 women-operated farms and 630,116 BFRs, accounting for 58 percent and 33 percent, respectively, of total U.S. farms (USDA, 2019b). See Section 3.2.1.2 below for 2017 and 2022 data on minority-owned farms.

**Table 3.7-1. Groups Including Socially Disadvantaged Farmers and Ranchers**

Group Name	Group Definition
Socially Disadvantaged Farmers and Ranchers (SDFR)*	A farmer or rancher who is a member of either: <ol style="list-style-type: none"> <li>1. “... A group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities” (7 U.S.C. § 2279(a)(6)); or</li> <li>2. “... A group whose members have been subjected to racial, ethnic, <i>or gender</i> prejudice because of their identity as members of a group without regard to their individual qualities” (7 U.S.C. § 2003(e)(2)).</li> </ol> The applicable definition varies based on the USDA program.
Beginning Farmer or Rancher (BFR)*	A qualified BFR; i.e., “an applicant l... who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years” (7 U.S.C. §1991(a)(8) & (11)). Additional requirements may apply.
Veteran Farmer or Rancher (VFR)*	“A farmer or rancher who has served in the Armed Forces (and who: <ol style="list-style-type: none"> <li>a) “Has not operated a farm or ranch;</li> <li>b) “Has operated a farm or ranch for not more than 10 years; or</li> <li>c) “Is a veteran ... who has first obtained status as a veteran (as so defined) during the most recent 10-year period” (7 U.S.C. §2279(A)(7)).</li> </ol>
Limited Resource Farmer or Rancher	“A farmer or rancher as:

Group Name	Group Definition
(LRFR)*	<ol style="list-style-type: none"> <li data-bbox="448 249 1414 317">1. “A person with ... gross farm sales not more than the current indexed value in each of the previous two fiscal years (adjusted for inflation); and who</li> <li data-bbox="448 327 1414 432">2. “Has a total household income at or below the national poverty level for a family of four, or less than 50% of county median household income in each of the previous two years” (CRS, 2024; 7 C.F.R. § 1470.3, 1465.3, &amp; 760.1901)</li> </ol> <p data-bbox="448 443 1414 510">To determine LRFR eligibility, USDA directs producers to use the USDA Self Determination Tool.</p>
Historically Underserved Producer	Defined in USDA regulations as “A person, joint operation, legal entity, or Indian Tribe who is a BFR, SDFR, VFR, or LRFR” (7 C.F.R. § 1470.3 or 1464.3) (Note that this group term is undefined in the statute in which it is originally used [P.L. 110-246, § 2708]).
Underserved Producer	“An individual (including a member of an Indian Tribe) that is a BFR; a VFR; or a SDFR” (7 U.S.C. § 1508(a)(7)(A)(ii)).

Sources: CRS, 2024; USDA, No Date-d; 7 C.F.R. § 1470.3, 1464.3, 1465.3, and 760.1901; 7 U.S.C. § 2279(a)(6) & (7), 2003(e)(2), 1991(a)(8) & (11), and 1508(a)(7)(A)(ii)

Note: \*Available data on each individual group of farmers and ranchers may include data for SDFRs, BFRs, VFRs, and LRFRs; therefore, data are not additive with those for other underserved producer groups.

### 3.7.1.2 Minority Populations

- The CEQ defines “minority” as including the following population groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic Origin; or Hispanic (CEQ, 1997). The CEQ defines a minority population in the following ways:
- “... If the percentage of minorities exceeds 50 percent ...” (CEQ, 1997); or
- “... [If the percentage of minorities] is substantially higher than the percentage of minorities in the general population or other appropriate unit of geographic analysis” (CEQ, 1997).
- Since the area of analysis under this Draft PEA is the entire U.S. and the number and location of specific projects that could be funded under this Draft PEA is unknown, it is not possible to analyze the percentage of minority populations within project-specific geographic units (e.g., cities or counties). Instead, this section summarizes the most recent available (2017) data on minority populations and minority-operated farms across the U.S.

The U.S. Census Bureau (USCB) Diversity Index (DI) was used as a proxy to determine the U.S. states with the highest minority populations. The DI measures the probability that two people chosen at random will be from different race or ethnicity groups (USCB, 2021). The DI ranges from zero, meaning that everyone in the sampled population is from the same racial or ethnic group, and one, meaning that everyone in the sampled population is from a different racial or ethnic group. The following racial and ethnic groups used to calculate the DI: Hispanic or Latino, Black or African American, American Indian and Alaskan Native, Asian, Native Hawaiian and Other Pacific Islander, non-Hispanic white, Other, and non-Hispanic Multiracial (USCB, 2021). **Table 3.7-2** lists U.S. states with a DI of 60 percent or more (i.e., minority groups compose approximately 40 percent or more of the state population).

**Table 3.7-2. U.S. States with DI of 60 Percent or More and with Higher Relative Risk of Natural Disasters**

U.S. State or District	Diversity Index (%)	Identified as Having Higher Relative Risk of Natural Disasters*
Hawaii	76.0	No
California	69.7	Yes
Nevada	68.8	Yes
Maryland	67.3	No
District of Columbia	67.2	No
Texas	67.0	Yes
New Jersey	65.8	No
New York	65.8	Yes
Georgia	64.1	Yes
Florida	64.1	Yes
New Mexico	63.0	Yes
Alaska	62.8	Yes
Arizona	61.5	Yes
Virginia	60.4	Yes
Illinois	60.3	No
<b>U.S.</b>	<b>61.1</b>	

Source: USCB, 2021; Moneywise, 2022; WalletHub, 2023

\*States that were ranked in the top 27 based on the number of natural disaster events since 1953 (Moneywise, 2022) and the economic damage caused by natural disasters since 1980 (WalletHub, 2023) were marked with a “yes,” while states that were ranked 28<sup>th</sup> or lower were marked with a “no.” Since natural disaster risk by state can be determined in several different ways, this table serves merely as a summary point of reference and is not definitive or prescriptive. All U.S. states experience natural disasters and therefore have some level of risk of natural disasters.

**Table 3.7-3** shows the percentage of farms operated by minority populations according to the 2017 and 2022 U.S. Censuses of Agriculture, including values for multiracial and white populations and for the entire U.S. for comparison. In 2022, minority populations operated a composite 9.0 percent of U.S. farms, with the greatest number of farms operated by Hispanic individuals (4.4 percent), followed by American Indian or Alaskan Native individuals (2.1 percent), Black or African American individuals (1.5 percent), Asian individuals (0.8 percent), and Native Hawaiian or Other Pacific Islander (0.1 percent). The total number of farms decreased by 6.9 percent from 2017 to 2022, and the total number of minority-owned farms was maintained or decreased from 2017 to 2022 for all people groups except Hispanic, multiracial, and white populations. The three states with the highest number of minority-operated farms (including all minority groups) remained the same from 2017 to 2022: Texas, California, and New Mexico.

Several of the states with the highest number of minority-owned farms are also some of the most natural disaster-prone states in the U.S., including Texas, Mississippi, and Oklahoma, based on the number of natural disaster events since 1953 (Moneywise, 2022) and on the amount of economic damage caused by natural disasters since 1980 (WalletHub, 2023).

Note that minority-owned farms are not necessarily part of geographic minority populations, though the two are likely to overlap, especially considering the close relationship between agriculture and rural areas described below in Section 3.7.1.2, Low-Income Populations.

**Table 3.7-3. Farms Owned by Minority Populations in 2017 and 2022**

People Group	Percentage of U.S. Farms Operated in 2017	Number of Farms Operated in 2017	Percentage of U.S. Farms Operated in 2022	Number of Farms Operated in 2022	Top Three States with the Most Farms, from Greatest to Least*
American Indian or Alaskan Native	2.1	42,705	2.1%	40,621	Arizona, Oklahoma, New Mexico
Asian	0.8	15,826	0.8%	16,072	California, Hawaii, Texas
Native Hawaiian or Other Pacific Islander*	0.1%	2,537	0.1%	2,779	Hawaii, California, Texas
Black or African American	1.6	32,910	1.5%	28,723	Texas, Mississippi, Alabama
Hispanic, Latino, or Spanish Origin	4.2	86,278	4.4%	83,505	Texas, California, New Mexico
<b>Sum for all Minority Groups</b>	<b>8.8</b>	<b>200,169</b>	<b>9.0%</b>	<b>171,700</b>	<b>Texas, California, New Mexico</b>
Multiracial	1.2%	22,534	1.3%	24,990	Oklahoma, Texas, California
White	96.1%	1,963,286	96.3%	1,829,449	Texas, Missouri, Iowa
<b>Entire U.S.</b>	<b>-</b>	<b>2,042,220</b>	<b>-</b>	<b>1,900,487</b>	<b>-</b>

Source: USDA, 2019b

\*The top three states with the most farms for all people groups were maintained from 2017 to 2022.

### 3.7.1.3 Low-Income Populations

The same approach used to identify EJ minority populations (outlined in Section 3.7.1.1 above) is often applied to low-income populations. However, as stated above, it is not possible under this Draft PEA to analyze the percentage of low-income populations within project-specific geographic units. Therefore, this section summarizes the most recent available data on the geographic distribution of and relationship between rural, agricultural, and low-income populations in the U.S.

Due to the land requirements for traditional commercial agriculture, farms are commonly located in or near rural areas. The USCB defines rural as, “any population, housing, or territory not in an urban area” (USCB, No Date). An urban area is a densely developed area with a population of at least 5,000 (USCB, 2023). For the 2010 Census, USCB delineated 3,573 urban areas, which cumulatively account for approximately 3 percent of U.S. land. The remaining 97 percent of U.S. land is rural land, populated by approximately 19 percent of the U.S. population as of 2010, with the most populous rural counties located in Maine, New Hampshire, and North Carolina (USCB, No Date; USCB, 2022). Of the 3,143 counties surveyed for the 2010 Census, 1,189 counties (i.e., 60 percent) were rural (USCB, No Date), and of those, 391 were classified as farming dependent (USDA, 2015). Farming dependent counties are those in which 16 percent or more of jobs are in farming, or in which 25 percent or more of the county’s average annual labor and proprietor’s earnings were from farming (USDA, 2015). In 2019, poverty rates for all racial and

ethnic groups were higher in rural areas compared to urban areas, and for minority groups compared to non-Hispanic white residents (USDA, 2021c). As noted in Section 3.6, Socioeconomics, U.S. farm households are generally not classified as low-income but are likely to be located in or near low-income rural areas. Additionally, agriculture accounts for approximately 17 percent of employment in rural areas (CAP20, 2019).

TAP funding is distributed to eligible growers who have experienced the loss of at least 15 percent of their commercial crop(s) due to a natural disaster. Natural disasters, which are increasing in frequency and severity due to climate change (see Section 3.4, Climate Change), often disproportionately affect communities with EJ concerns such as minority and low-income communities.

### 3.7.2 Environmental Consequences

This section describes the potential environmental effects that could occur to minority communities and low-income communities as a result of each alternative.

#### 3.7.2.1 Proposed Action Alternative

Under the Proposed Action Alternative, funding would be issued under the existing TAP program to eligible growers who experience a qualifying loss in the instance of a TAP-triggering natural disaster. Funds could be issued for the implementation of stumping activities when it would not result in new ground disturbance relative to prior planting rotations in the same location, as described in Section 2.2, as well as for the clearing of up to 1,000 acres of affected TAP-eligible crops without the explicit requirement of an EA or EIS. Therefore, TAP applicants may experience reduced environmental review processing times under the Proposed Action Alternative relative to the existing TAP, potentially increasing beneficial effects.

Under the Proposed Action Alternative, **direct** effects to EJ communities would occur to farms located within an EJ community, particularly minority-owned farms and farms owned by SDFRs, and would be **local to regional** depending on the size of the EJ community in which the farm is located and the farm's region of economic influence within that community. **Indirect** effects to EJ communities may occur near EJ communities who benefit from the farm's participation in the local economy, for example, through the provision of jobs. The extent of indirect effects could range from **local to regional** depending on the farm's region of economic influence.

Under the Proposed Action Alternative, **direct and indirect, beneficial** effects to EJ communities would occur if TAP funds were provided to eligible farms located in or near communities with EJ concerns because the funds would contribute to the physical and socioeconomic restabilization of the community affected by the TAP-triggering natural disaster, as well as to surrounding EJ communities, particularly since EJ communities are more likely to be disproportionately affected by natural disasters. Beneficial effects under the Proposed Action Alternative would be **minor to moderate** depending on the location of the farm relative to EJ communities and the farm's region of economic influence among those EJ communities. Beneficial effects could range from **short- to long-term** depending on the extent to which TAP funds contribute to the economic stabilization of the farm. For instance, if TAP funds help ensure that the farm stays open after the natural disaster, then the effects could be long-term due to the continued availability of jobs on the farm.

#### 3.7.2.2 No Action Alternative

Under the No Action Alternative, TAP funding would be issued to TAP-eligible growers in the instance of a TAP-triggering natural disaster. Funds could be issued for the implementation of stumping activities

under the existing site-specific environmental review procedure. Additionally, growers seeking TAP assistance to clear greater than 15 acres would need to complete an EA or EIS under the existing site-specific environmental review process. Therefore, TAP applicants may experience lengthy environmental review processing times under the No Action Alternative, potentially delaying rehabilitation activities and reducing beneficial effects to EJ communities. As a result, potential socioeconomic effects under the No Action Alternative would be **direct and indirect, beneficial, minor to moderate, short- to long-term, and local to regional**.

### **3.8 RESOURCES ELIMINATED FROM DETAILED ANALYSIS**

All potentially relevant resources were initially considered for analysis in this Draft PEA. Consistent with NEPA implementing regulations and guidance, the focus of the analysis is on topics with the greatest potential for environmental effects. CEQ regulations encourage NEPA analyses to be as concise and focused as possible, consistent with 40 CFR § 1500.4(e).

This section identifies those resources that are dismissed from further analysis and the rationale for dismissal. In conducting this analysis, a qualified subject matter expert reviewed the potential direct and indirect effects of the project relative to each environmental resource and indicated those resources which would not be substantially affected by any of the alternatives.

Part of the evaluation process for TAP funding would involve completing the site-specific ESW to identify any resources that require consultation and more detailed analysis.

#### **3.8.1 Coastal Barriers**

The Coastal Barrier Resources Act withdraws the availability of federal funding and financial assistance within areas designated as coastal barriers under the Coastal Barrier Resources System. This act aims to protect undeveloped coastal barriers and prevent federal activities from encouraging further development. The Coastal Barrier Resources System contains undeveloped coastal barriers and is not likely to contain any existing farms growing TAP-eligible crops. Should any producers seek to replant new crops in a designated coastal barrier, this would be evaluated on a separate site-specific environmental review. Therefore, there would be no effects on coastal barriers for actions covered by this Draft PEA, and this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

#### **3.8.2 Coastal Zone**

The Coastal Zone Management Act provides for the management of the nation's coastal resources. The National Coastal Zone Management Program comprehensively addresses the nation's coastal issues through a voluntary partnership between the federal government and coastal and Great Lakes states and territories. While state partners must follow basic requirements, the program also gives states the flexibility to design unique programs that best address their coastal challenges and regulations. By using both federal and state expertise and resources, the program strengthens the capabilities of each to address coastal issues. This act requires federal activities that are reasonably likely to affect use of lands or waters, or natural resources of the coastal zone to be consistent, to the maximum extent practicable, with the enforceable policies of the state's Coastal Zone Management Plan. TAP activities taking place within coastal zones may need to undergo consultation with the state to ensure that TAP activities are consistent with the state's Coastal Zone Management Plan. Reestablishing crops could slightly increase agricultural chemical runoff, but any effects from runoff are analyzed in Section 3.3, Water Resources. As noted in that section, chemicals would be used according to EPA regulations, and the chemicals that would be used would likely not vary much from what was used before the crop was lost. No substantial effects

to coastal zone resources are expected from implementation of TAP. Therefore, this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.3 Wilderness Areas**

The Wilderness Act of 1964 established the National Wilderness Preservation System. These designated areas are lands managed by the National Park Service, Bureau of Land Management, USFWS, and the U.S. Forest Service. TAP funding is for privately owned land that would not be located within a federally designated Wilderness Area. If an individual TAP application was within close proximity to a Wilderness Area, a separate site-specific environmental review would be completed for the action. Therefore, this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.4 Wild and Scenic Rivers/ Nationwide Rivers Inventory**

The Wild and Scenic Rivers Act of 1968 established the National Wild and Scenic Rivers System to preserve rivers with outstanding natural, cultural, and recreational values for future generations. State and local zoning would regulate any uses that would potentially be funded under TAP. This Draft PEA does not address specific locations; therefore, effects to designated Wild and Scenic Rivers or rivers listed in the Nationwide Rivers Inventory (NRI) are not analyzed in this Draft PEA. A site-specific environmental review would be completed, and if there are any Wild and Scenic Rivers or NRIs present within a project area, they would be identified and evaluated. Therefore, this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.5 National Natural Landmarks**

The National Natural Landmark program was established in 1962 to recognize natural areas that the Secretary of the Interior designates for significant biological and/or geological features. TAP funding is for privately-owned farmland that would not likely meet the criteria for participation in the National Natural Landmarks program. Therefore, this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.6 Soils**

Soil functions include regulating water, sustaining plant and animal life, cycling nutrients, and supporting buildings and structures. The capacity of a given soil to provide these functions can be affected by erosion, which is directly related to soil type, presence and type of vegetation, and weather conditions. The implementation of TAP would not be expected to have substantial effects on soil resources. Sites eligible for TAP funding have previously been used for agricultural resources. Onsite soils are expected to continue being used to grow eligible crops. Any potential effects on soil erosion are addressed in Section 3.3. To qualify for TAP funding, producers must implement conservation plans to ensure compliance with highly erodible land conservation in accordance with the FSA Handbook for Highly Erodible Land Conservation and Wetland Conservation Provisions. Therefore, this resource is dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.7 Air Quality**

Effects to air quality were considered but dismissed from detailed analysis due to the low likelihood of adverse effects. Air quality is the measure of the atmospheric concentration of defined pollutants in a specific area. Air quality is affected by pollutant emission sources, as well as the movement of pollutants in the air via wind and other weather patterns. An air pollutant is any substance in the air that can cause harm to humans or the environment. Pollutants may be natural or human-made and may take the form

of solid particles, liquid droplets, or gases. Natural sources of air pollution include smoke from wildfires, dust, and wind erosion. Human-made sources of air pollution include emissions from vehicles; dust from unpaved roads, agriculture, or construction sites; and smoke from human-caused fires.

Under the CAA (40 CFR Part 50), EPA established the National Ambient Air Quality Standards (NAAQS), which are the maximum allowable concentrations for six criteria pollutants that can be harmful to public health and the environment. The six criteria pollutants are carbon monoxide, lead, nitrogen dioxide, sulfur dioxide, particulate matter (less than or equal to 10 micrometers and less than or equal to 2.5 micrometers in diameter), and ozone.

TAP activities that could potentially affect air quality include site preparation and debris removal, which could utilize tilling, controlled burning, and the operation of heavy equipment. Effects from emissions of GHGs on climate change are analyzed in Section 3.4. Tilling would temporarily increase the particulate matter concentrations in the immediate area; however, this increase is not expected to be substantial. Controlled burning of woody vegetation could lead to the release of some air pollutants. The quantity of pollutants would be determined by the amount of vegetation being burned, the type of vegetation, and the weather conditions. It is not anticipated, however, that this burning would have a substantial effect on the local air quality. Many states and local authorities, particularly those with counties in nonattainment for particulate matter or ozone, prohibit or restrict open burning and often require a permit. A nonattainment area is an area that exceeds pollution limits for one or more criteria pollutants as defined by NAAQS. Producers that choose to use open burning for debris removal would need to consult with the air division of their state department of environmental quality to determine the open burning regulations for their county. Site preparation and debris removal could be done with various types of heavy equipment that would release air pollutants. However, tilling, controlled burning, and the use of heavy equipment would be temporary and limited to the site preparation stage. Therefore, emissions from TAP activities could have minimal, short-term effects, if any, on air quality. As a result, this resource was dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.8 Noise**

According to the EPA, noise is ‘unwanted or disturbing sound.’ Sound becomes unwanted when it either interferes with normal activities such as sleeping or conversation or disrupts or diminishes one’s quality of life (EPA, 2023c). Noise is largely regulated at the local level through noise ordinances, often in association with land use, zoning, and the time of day. TAP activities, such as the operation of heavy equipment, may generate heightened levels of noise. However, noise from equipment is common in agricultural areas. Furthermore, rural agricultural areas often have few sensitive receptors, such as schools, hospitals, and homes, that would be affected by excess noise. Therefore, noise has been dismissed from detailed analysis for actions covered by this Draft PEA.

### **3.8.9 Utilities**

Utilities are services which enable a facility to operate, such as water and sewage, natural gas, electricity, and trash and recycling services. Establishing any utility connections or repairing any utilities is outside of the scope of TAP and this Draft PEA. Any effects from water usage for irrigation purposes are analyzed in Section 3.3. Therefore, utilities have been dismissed from detailed analysis for actions covered by this Draft PEA.



### 3.9 UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS

Effects from the action alternative on the environment have been described in detail in the previous individual resource sections of this chapter. **Table 3.9-1** provides a summary of unavoidable adverse environmental effects of the Proposed Action Alternative.

**Table 3.9-1. Unavoidable Adverse Environmental Effects**

Resource Area	Environmental Effects
Biological Resources	<p><b>Direct, adverse, negligible to minor, short-term, and local</b> effects on any native vegetation potentially located in the area due to the application of herbicides and removal of weeds.</p> <p><b>Direct, adverse, negligible, short-term, and local</b> effects on vegetation due to the use of heavy equipment and spread of invasive species.</p> <p><b>Direct, adverse, negligible to minor, long-term, and local</b> effects on wildlife due to site preparation and tree removal activities.</p> <p><b>Direct, adverse, negligible, short-term, and local</b> effects on aquatic wildlife due to erosion and application of chemicals and pesticides.</p> <p><b>No effects</b> on bald or golden eagles.</p> <p><b>Direct, adverse, minor to moderate, short-term, site-specific</b> effects on migratory birds due to the removal of impacted trees and disturbance due to noise and activity during site preparation activities.</p>
Water Resources	<p><b>Direct, adverse, negligible to minor, short- and long-term, and local</b> effects on water quality due to erosion.</p> <p><b>Direct, adverse, negligible to minor, long-term, and local</b> effects on surface and groundwaters due to the use of chemicals during rehabilitation activities.</p> <p><b>Direct, adverse, negligible, short- and long-term, and local</b> effects on groundwater due to the use of groundwater for irrigation.</p> <p><b>Direct, adverse, negligible, long-term, and local</b> effects on groundwater due to the use of pesticides, fertilizers, and other chemicals during rehabilitation activities.</p> <p><b>Direct, adverse, negligible, long-term, and site-specific</b> on floodplains if a new field is planted within the 100-year floodplain.</p> <p><b>Direct, adverse, negligible to minor, short-term, and local</b> effects on wetlands due to rehabilitation activities.</p>
Climate Change	<p><b>Direct, adverse, negligible, short-term, and regional</b> effects on climate change due to GHG emissions associated with TAP funded activities.</p> <p><b>Direct, adverse, negligible to moderate, long-term, and regional</b> effects on TAP-eligible crops from climate change.</p>
Cultural Resources	<p><b>Direct, adverse, negligible to moderate, short- to long-term or permanent, site-specific</b> effects to cultural resources if damaged or destroyed during ground disturbing activities.</p>
Socioeconomics	<p>There are no unavoidable adverse effects to socioeconomics known at this time.</p>
Environmental Justice	<p>There are no unavoidable adverse effects to EJ known at this time.</p>

### **3.10 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES**

Section 102(C)(v) of NEPA [42 USC 4332] requires NEPA documents to address “any irreversible and irretrievable commitments of resources which would be involved in the Proposed Action Alternative should it be implemented.” Irreversible commitments of resources mean losses to or impacts on natural resources that cannot be recovered or reversed. Irretrievable commitments are those that are lost for a period of time. Several resources would be expended under the Proposed Action Alternative, such as the fuel used to operate equipment, the human effort required to prepare TAP sites, and the damaged or dead TAP-eligible crops that would be removed. These are considered irreversibly committed; however, the commitment of these resources is not exceptional or significant because the activities funded under TAP would largely be standard agricultural practices for the rehabilitation of damaged or dead TAP-eligible crops. Activities funded by TAP would not be exceptionally more resource-intensive compared to standard agricultural practices. The agricultural production of TAP-eligible crops damaged by natural disasters would be irretrievably committed. However, the Proposed Action Alternative aims to streamline the NEPA review process for producers seeking assistance and thus would aim to minimize the agricultural production that is lost due to damage from natural disasters.

## **4.0 CUMULATIVE EFFECTS**

CEQ regulations require federal agencies to assess the cumulative effects of federal projects during the decision-making process. Cumulative effects result “from the incremental effect of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time” (40 CFR 1508.1). This section describes the cumulative effects that the alternatives, as well as other past, present, and reasonably foreseeable future actions, may have on the environment.

### **4.1 CUMULATIVE ACTIONS SCENARIO**

Cumulative actions are those past, present, and reasonably foreseeable future actions that must be addressed in the cumulative effects analysis because their environmental effects may combine with the effects of the alternatives analyzed in this Draft PEA. Current and foreseeable future actions that could contribute to cumulative effects include climate change and continued trends in farming.

Section 3.4 describes the effects on climate change from TAP activities, but climate change would also cause effects on the environment that could combine with the effects of the alternatives. Climate change is an ongoing event that is projected to have potentially substantial effects on agricultural activities. Agriculture is very sensitive to weather, climate, and other natural resources reliant on the climate, such as land and water. The effects of climate change on agriculture depend on the rate and severity of the changes. For example, climate change is anticipated to increase the frequency of heavy precipitation events in the U.S. Heavy precipitation events are instances where the amount of rain or snow experienced in a location substantially exceeds what is considered normal for that location; the events, however, do not necessarily increase the total amount of precipitation at a location. Heavy precipitation events can potentially erode soil, damage crops, or lead to increases in flood risk due to heavy rains (EPA, 2024f). Therefore, climate change would likely contribute cumulative effects to resource areas analyzed in this Draft PEA, including biological resources, water resources, socioeconomic resources, cultural resources, and environmental justice.

As described in Section 3.6.1, farming trends in the U.S. could contribute to cumulative effects on the environment. Crop production has seen a widespread and persistent shift of acreage and sales to larger farming operations over the last three decades. There are many small farms in the U.S., but most agricultural production is concentrated among a small number of much larger farms (USDA, 2018b). The number and size of farms in the U.S. have been undergoing changes since the 1930s. The total number of farms in the U.S. peaked in 1935 and then declined rapidly until 1982. Since then, the total number of farms has continued to decline but at a slower rate. Conversely, the average farm size increased rapidly from the late 1930s to the early 1970s, with a slower rate of growth from the 1970s to the present day. The shift to larger farms has also been widespread across crops, including fruit, tree nut, and berry crops (USDA, 2018b). The number of farms in the U.S. is expected to continue declining, while the average size of each farm is expected to continue increasing (USDA, 2024b). The continuation of these trends would likely contribute cumulative effects to resource areas analyzed in this Draft PEA.

### **4.2 CUMULATIVE EFFECTS ON THE ENVIRONMENT**

#### **4.2.1 Biological Resources**

Climate change is causing increases in the frequency or severity of extreme weather events and thus increase the risk that natural disasters, such as floods, would affect TAP-eligible crops. Any increase in natural disasters affecting TAP farms or orchards would be expected to damage or destroy a higher

number of TAP-eligible crops. Additionally, climate change would be anticipated to lead to increases in average temperatures and regional decreases in soil moisture. Both factors could lead to more frequent and severe droughts, which could stunt, or damage stands of TAP-eligible crops. Effects would vary depending on region-specific climate change trends. Continuing farming trends in the U.S. are not anticipated to contribute cumulative effects to TAP.

Although TAP is a voluntary program, any increase in disasters due to climate change is anticipated to lead to a corresponding increase in producers applying for TAP funding to undergo rehabilitation activities. Thus, the cumulative effects from climate change could lead to a higher level of TAP activities, which would cause slight increases of the Proposed Action Alternative's effects on biological resources. An increase in the frequency or severity of natural disasters affecting TAP-eligible crops would likely lead to a larger total area experiencing cumulative disturbance, site preparation, and the application of chemicals under TAP, especially if multiple disasters occur simultaneously. Effects across multiple project sites could cumulatively result in the removal of larger localized areas of impacted TAP crops, the localized application of chemicals across a broader area, and the removal of a larger amount of low-quality wildlife habitat. However, most TAP project sites are expected to be active agricultural sites that support few native communities of vegetation or wildlife. Additionally, adverse effects stemming from increased natural disasters are anticipated to be far greater than the effects from TAP activities occurring in response to the disasters. Therefore, the cumulative effects of TAP activities would be anticipated to be minimal when considered with other cumulative actions.

When these other actions are considered cumulatively with the project alternatives, cumulative effects to biological resources could occur through increased risk of natural disasters and the increased risk of drought in the U.S. The effects of climate change in particular could lead to a corresponding increase in TAP rehabilitation activities. However, the cumulative effects of TAP would be minimal relative to the cumulative effects of the larger trends described above. As such, the Proposed Action Alternative would contribute **direct, adverse, negligible to minor, short- and long-term, and regional** cumulative effects.

#### **4.2.2 Water Resources**

Climate change is anticipated to lead to a higher level of heavy precipitation events in the U.S. Heavy precipitation events could contribute to localized increased rates of soil erosion and sedimentation and could carry an increased amount of chemicals from agricultural areas into nearby water resources. Higher frequencies or severities of heavy precipitation events could lead to water quality declines in receiving surface waters, wetlands, and groundwater. Under continuing farming trends in the U.S., the amount of agricultural land that is irrigated would be expected to gradually increase. Increased irrigation could lead to decreases in available water for usage from surface water and groundwater over time. Effects would vary from region to region depending on water availability, recharge rates, and water usage.

Under climate change, heavy precipitation events could contribute to localized increased rates of soil erosion on TAP sites and could carry chemicals from TAP sites, which could contaminate runoff and contribute to water quality declines in receiving surface waters, wetlands, and groundwater. These events could also carry chemicals onto TAP sites from other locations. However, heavy precipitation events would likely also affect areas much larger than the sites undergoing rehabilitation under TAP. Therefore, any erosion and chemicals carried from TAP sites would likely represent a minimal percentage of the total amount of pollutants originating in and carried from other sources. Additionally, TAP activities would use surface water and groundwater to reestablish or replant crops. However, the quantity and type of water used for irrigation would likely be similar to the water used for the existing crops before TAP assistance.

When these other actions are considered cumulatively with the project alternatives, cumulative effects to water resources could occur through increased erosion rates, the introduction of contaminants into

nearby water resources due to heavy precipitation events, and the gradual increase in irrigated acres in the U.S. TAP rehabilitation activities would be expected to contribute minimal cumulative effects relative to the cumulative effects of the larger trends described above. As such, the Proposed Action Alternative would contribute **direct, adverse, negligible to minor, short- and long-term, and regional** cumulative effects.

### 4.2.3 Climate Change

The effects of climate change on the project are analyzed in Section 3.4 and thus are not considered cumulatively in this section. The continued trend of a smaller number of larger, more consolidated farms could contribute adverse cumulative effects to climate change. Modern agriculture uses heavy industrial equipment for many standard farming practices. The use of large equipment and vehicles may lead to an increase in the generation of GHGs due to fuel combustion and from the application of synthetic nitrogen fertilizers. However, this trend is not anticipated to lead to substantial increases in GHGs as many smaller farms also use similar equipment in their standard farming practices.

TAP activities would also contribute cumulatively to the emission of GHGs, such as CO<sub>2</sub> and N<sub>2</sub>O, through the operation of equipment, application of fertilizers, and the controlled burning of vegetation. GHG emissions would vary from site to site, but it is anticipated that the overall GHG emissions from TAP activities would be minimal overall, especially relative to widespread crops, such as corn or soybeans, that require a higher amount of fertilizer. As such, cumulative effects to climate change are not expected to be substantial since GHG emissions associated with TAP activities would constitute a miniscule fraction of the U.S.'s annual GHG emissions and would make a negligible contribution to global climate change.

The identified cumulative actions may add a minimal increase in GHGs. Therefore, when the other actions are considered cumulatively with the project alternatives, cumulative effects could occur through the emissions of GHGs into the atmosphere. TAP rehabilitation activities would be expected to contribute minimal cumulative effects relative to the cumulative effects of the larger trends described above. As such, the Proposed Action Alternative would contribute **direct, adverse, negligible, short- and long-term, and regional** cumulative effects on climate change.

### 4.2.4 Cultural Resources

As discussed in Section 3.5, Cultural Resources, it is overall unlikely that cultural resources would be located on land that has been actively managed to produce TAP-eligible crops, but some archaeological resources may occur.

Continuing trends in climate change would lead to increased precipitation in some areas of the U.S. and increased drought in others. Increased sediment erosion on TAP-eligible farms due to precipitation events could uncover any buried cultural resources; conversely, extreme changes in soil moisture on TAP-eligible farms, whether via flooding or drought, could either reparably or irreparably damage any onsite cultural resources. Potential cumulative effects to cultural resources as a result of climate change would depend on the identity, importance, and condition of the resources, and whether or not they are discovered.

Although TAP is a voluntary program, increased occurrences of natural disasters as a result of climate change would be expected to have a corresponding increase in the number of TAP applicants and subsequently the number and frequency of TAP activities. Increased TAP activities, in turn, would contribute cumulative effects to cultural resources on TAP eligible farms in conjunction with the Proposed Action Alternative by increasing the likelihood of discovering or damaging cultural resources during implementation of TAP rehabilitation activities. Additionally, continued socioeconomic trends in U.S. agriculture, specifically the projected continued increase in average farm size, may result in expansion of

TAP-eligible farms beyond the area of previous disturbance, increasing the likelihood of discovering or disturbing cultural resources that may be located on the previously undisturbed land.

Cumulative effects to cultural resources due to climate change and U.S. agricultural economic trends would be **direct, beneficial** or **adverse**, and **minor** to **moderate** depending on the frequency and severity of natural disasters and other weather events exacerbated by climate change and depending on the extent to which overall farm sizes continue to increase onto previously undisturbed land. Cumulative effects to cultural resources would occur over the **long-term** as extreme climate and weather events related to climate change and average farm size both continue to increase and would be **regional** due to the widespread nature of climate change and agricultural socioeconomic trends.

#### 4.2.5 Socioeconomics

Although TAP is a voluntary program, increased occurrences of natural disasters as a result of climate change would be expected to have a corresponding increase in the number of TAP applicants and subsequently the number and frequency of TAP activities, contributing cumulative **direct** and **indirect, beneficial** and **adverse** socioeconomic effects on farms to which TAP funds are applied and in their surrounding communities. Increased occurrences of natural disasters would have adverse socioeconomic effects due to increased crop loss and associated economic risk incurred by the farm and surrounding community affected by the TAP-triggering natural disaster. Conversely, the provision of TAP funding, particularly in areas more prone to natural disasters, would reduce the economic risk incurred.

Similarly, continued agricultural economic trends in the U.S., such as overall reductions in farm income, reductions in the number of farms, and increased farm size would have **direct** and **indirect, adverse** socioeconomic effects.

Cumulative socioeconomic effects as a result of climate change and agricultural economic trends would be **minor** to **moderate** depending on the severity of future climate change events and agricultural economic trends, as well as the affected localities. For instance, although climate change-related extreme weather events are likely to be widespread, states that are already prone to natural disasters may be more affected. Cumulative socioeconomic effects would occur **regionally** over the **long-term** due to the broad nature of international climate change and agricultural economic trends.

#### 4.2.6 Environmental Justice

Many EJ communities (Section 3.7, Environmental Justice) disproportionately experience the effects of climate change, including increased frequency of extreme weather events and natural disasters, and of economic downturns, such as ongoing agricultural economic trends. Although most farms are not themselves considered low-income, just over 9 percent of farms in the U.S. are minority-owned, and agriculture is closely connected to rural areas, which are more likely to contain low-income populations. However, although TAP is a voluntary program, increased occurrences of natural disasters as a result of climate change would be expected to have a corresponding increase in the number of TAP applicants and subsequently the number and frequency of TAP activities.

Therefore, in conjunction with the Proposed Action Alternative, cumulative effects to EJ communities would be **direct** and **indirect, beneficial** and **adverse**, and would range from **minor** to **moderate** depending on the severity of future climate change events and agricultural economic trends. Beneficial cumulative effects would occur to farms located in and near EJ communities as a result of expected increases in TAP funding, which would reduce the economic risk incurred by crops lost to natural disasters, particularly in areas more prone to natural disasters. Cumulative effects would occur **regionally** over the **long-term** due to the broad nature of international climate change and agricultural economic trends.

## 5.0 LIST OF PREPARERS

**Table 5-1. List of Preparers**

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## **Appendix A Scoping Report**

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# **U.S. Department of Agriculture Farm Service Agency Tree Assistance Program Programmatic Environmental Assessment Final Public Scoping Report**

**Prepared for:**

U.S. Department of Agriculture  
Farm Production and Conservation Business Center  
Environmental Activities Division  
Farm Service Agency Tree Assistance Program

Contract Number: 47QRAA18D00DH

Order Number: 12FPC222F0174

**Submitted by:**



8201 Greensboro Dr., Suite 700  
McLean, VA 22102

March 12, 2024

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## **ACRONYMS AND ABBREVIATIONS**

CATEX	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
FSA	Farm Service Agency
NEPA	National Environmental Policy Act
PEA	Programmatic Environmental Assessment
TAP	Tree Assistance Program
U.S.	United States
USC	United States Code
USDA	U.S. Department of Agriculture



## 1.0 INTRODUCTION

The United States (U.S.) Department of Agriculture (USDA) is preparing a Programmatic Environmental Assessment (PEA) for USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP) to provide financial assistance to certain eligible commercial crop growers for the replanting or rehabilitation of crops damaged by natural disasters. The PEA will be prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [USC] 4321-4347), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500-1508), and 7 CFR Part 799, FSA Implementing Regulations for NEPA. Solv has prepared this Public Scoping Report on behalf of USDA to describe the project, including background information, proposed action, and alternatives; to display the scoping materials; and to summarize the public comments received during the extended public scoping period held from November 2, 2023, to January 4, 2024. This document also includes the following three appendices:

- Appendix A: Distribution List and Letter to Interested Parties
- Appendix B: Index of Comments by Source and Date
- Appendix C: Public Comments Received

## 2.0 PROJECT BACKGROUND

### 2.1 USDA FARM SERVICE AGENCY TREE ASSISTANCE PROGRAM

The USDA FSA serves farmers and ranchers through the delivery of effective and efficient agricultural programs. The agency provides farmers with a strong safety net through the administration of farm commodity and disaster programs.

The purpose of TAP is to provide financial assistance to eligible tree, bush, and vine growers (e.g., orchards, nurseries, vineyards) to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters, including but not limited to storms, wind, flooding, and infestation by invasive species or disease. TAP was made a permanent disaster program by the Agricultural Act of 2014 (the 2014 Farm Bill). Trees, bushes, and vines that produce an annual crop for commercial purposes are eligible for TAP. Individual eligible orchardists or nursery tree growers are limited to 1,000 cumulative total acres annually of TAP assistance.

Most TAP rehabilitation actions currently require the preparation of site-specific environmental documentation and initiation of site-specific consultations, elongating the application process and delaying the completion of rehabilitation activities. The following rehabilitation actions are relevant to the TAP program and are currently covered under listed Categorical Exclusions (CATEXs), which are a class of actions that a federal agency has determined, after review by CEQ, do not individually or cumulatively have a significant effect on the human environment and do not require further environmental review:

- Bare land planting or planting without site preparation;
- Pest management (consistent with all labelling and use requirements);
- Thinning and pruning of plants;
- Tree protection, including plastic tubes;
- Disturbance within the limits of current tillage; and
- Seedling shrub planting.

The following relevant activities are currently considered supported CATEXs and require environmental review prior to implementation:

- Land-clearing operations of no more than 15 acres;
- Nutrient management; and
- Tree planting when trees have root balls of one gallon container size or smaller.

FSA is proposing a programmatic NEPA approach to TAP that would streamline the application, environmental compliance, and funding process. The goals of the PEA are to identify a suite of common management activities which occur under TAP, develop a comprehensive list of environmental screening criteria to limit environmental impacts, accomplish program- and nation-wide agency consultation to the greatest extent possible, and analyze the potential human environmental impacts of the program nationwide.

### **3.0 PROPOSED ALTERNATIVES**

The PEA will consist of two “action” alternatives and one “no action” alternative. The two action alternatives will consider rehabilitation work, including pruning, removing, and salvaging existing trees and woody vegetation, preparing the land, and replanting new woody vegetation in areas where mortality occurs. The “no action” alternative will consider a scenario in which FSA continues to administer TAP under existing conditions.

The FSA has begun establishing environmental screening criteria to minimize the potential environmental, social, and economic impacts of the proposed action. To facilitate a more efficient environmental evaluation, these criteria would serve as guidelines for projects that are subject to this programmatic review. The criteria specify that:

- Project activities would not result in ground disturbance below the depth of previous disturbance;
- Project activities would not occur in designated critical habitat of federally-listed threatened and endangered species;
- Project activities would occur in areas outside of a 100-foot buffer surrounding bodies of water or wetlands;
- Project activities would not involve the clearing of woody vegetation other than eligible trees, bushes, or vines; and
- Land-clearing of eligible orchards, vineyards, and shrubs associated with the program would not exceed 1,000 acres (i.e., the maximum cumulative total acres eligible for TAP assistance per operation annually).

### **4.0 Notification of Scoping: Interested Parties Letter**

A list of stakeholders was developed for the TAP PEA project that includes federal, state, and public agencies with a known or potential interest in the project. Solv mailed or emailed scoping letters to these interested parties on November 2, 2023. The letter provided background information on the project, a brief description of the alternatives, and instructions on how to submit comments. Appendix A contains the list of interested parties identified for the PEA and a copy of the letter sent.

### **5.0 PUBLIC SCOPING COMMENTS**

USDA invited scoping comments to obtain input from the agencies and other interested parties on the proposed TAP PEA project. USDA will consider all public scoping comments received during the development of the Draft PEA. Appendix B contains an index of all comments organized by source and date. Appendix C contains all received comments.

## 5.1 COLLECTING COMMENTS

Solv LLC, USDA’s NEPA contractor, received comments via email on behalf of USDA throughout the comment period.

## 5.2 SUMMARY OF COMMENTERS

Solv indexed comments based on the source or commenter. All comments received were from state agencies. A total of 13 commenters provided input during the scoping period. Appendix B includes an index of comments with the commenter name, affiliation, date received, and nature of the comment. Appendix C includes all comments received.

## 5.3 ISSUES IDENTIFIED DURING SCOPING

Solv categorized each comment by subject. **Table 5-1** shows the number of received comments organized by subject. A total of 13 commenters submitted 24 different comments (some commenters submitted more than one comment).

**Table 5-1. Comments by Subject**

Subject	Number of Comments
Air Quality	1
Biological Resources	4
Cultural and Historic Resources	7
Karst Geography	1
Permitting	1
Public Outreach	4
Requests for Information	1
Screening Criteria	3
Solid Waste	1
Water Resources	1
<b>Total</b>	<b>24</b>

## 5.4 SUMMARY OF COMMENTS BY SUBJECT

This section summarizes the comments received during the public scoping period. The comments are organized into ten subject categories as shown in **Table 5-1**.

### 5.4.1 Air Quality

One (1) commenter submitted one (1) comment regarding air quality. The commenter noted that there are restrictions in the state of Missouri regarding the emissions of fugitive particulate matter, such as dust, from a project site. Additionally, with some limited exceptions, the open burning of refuse, construction, demolition, and trade waste is restricted in Missouri.

### 5.4.2 Biological Resources

Two (2) commenters submitted four (4) comments regarding biological resources. One commenter noted land clearing activities have the possibility to impact migratory birds that could use dead or dying trees as habitat for feeding, nesting, or loafing. The commenter recommended scheduling vegetation removal outside of the nesting period of migratory birds (the nesting season

varies depending on species and location), and the commenter provided the nesting period in Texas, March 15 to September 15. If it is not possible to schedule work outside of the nesting period, the commenter suggested that a qualified biologist survey the designated vegetation for active nests. For the state of Texas, the commenter also recommended that projects review lists of state threatened, endangered, or otherwise protected species at a county level. If the project area contains any such species, the commenter suggested taking precautions to avoid any potential impacts. Lastly, the commenter recommended and provided best management practices to avoid adverse effects to wildlife and other biological resources.

The second commenter recommended that the management of any trimmed or removed vegetation should follow all applicable local, state, and federal regulations.

### **5.4.3 Cultural and Historic Resources**

Five (5) commenters submitted seven (7) comments regarding cultural and historic resources. Three commenters noted that any projects involving ground disturbance, including the planting or removal of vegetation, could potentially disturb cultural and historic resources. The commenters recommended that archaeological resources be addressed during the planning process to ensure that adverse impacts to cultural resources are avoided or minimized.

One commenter recommended that the project develop an inadvertent discovery plan that outlines procedures and notification protocols if cultural or historic resources are unintentionally impacted during project activities. The same commenter also noted that the project would likely have no effects on architectural historic resources and expressed support for the proposed guidelines to streamline TAP reviews.

Additionally, one commenter noted that the state of Wisconsin has a law prohibiting ground-disturbing activities within the boundaries of any burial site mapped in the Wisconsin Archaeological Site Inventory. The commenter requested that any projects that disturb more area than the pre-existing plantings should review Wisconsin burial records to ensure that the project is not within any known burial sites.

Other commenters provided additional information about how to submit projects for Section 106 and state consultation. The commenters also recommended state-specific tools that could help determine potential impacts to historic or archaeological resources.

### **5.4.4 Karst Geography**

One (1) commenter submitted one (1) comment regarding karst geography. The commenter noted that karst topography is present in the state of Missouri and cautioned that extra care should be taken to minimize land disturbance in or around karst features. The commenter also recommended consulting additional resources and contacting the Missouri Geological Survey if the project requires a full geologic assessment.

### **5.4.5 Permitting**

One (1) commenter submitted (1) comment regarding permitting. The commenter noted that a land disturbance or site-specific permit may be required in the state of Missouri for projects that disturb an area of one acre or more, or valuable resource waters. The commenter also offered additional information for land disturbance permits in Missouri.

### **5.4.6 Public Outreach**

Four (4) commenters submitted (4) comments regarding public outreach. Two commenters requested that they be added to the distribution list. Another commenter requested that a copy of

the Draft PEA, when available, be emailed to the New Mexico State Historic Preservation Officer. The fourth commenter requested updates on any plans for tribal consultation during preparation of the Draft PEA.

#### **5.4.7 Requests for Information**

One (1) commenter submitted one (1) comment requesting information. The commenter requested clarification on the length of the public scoping period.

#### **5.4.8 Screening Criteria**

Three (3) commenters submitted three (3) comments regarding the screening criteria. One commenter expressed support for the project and suggested including the following screening criterion for projects: "Projects will not take place on land parcels where land disturbance or excavation is restricted due to previous environmental agreements or covenants."

One of the screening criteria states that "Project activities that would not result in ground disturbance below the level of previous disturbance." One commenter noted that tree roots often extend deeper than existing plow zones in agricultural settings and that this may not take into consideration long-term changes in vegetation that have occurred after planting.

The third commenter recommended that the following be added to the list of screening criteria: "Project activities would not occur within the boundaries of documented archaeological sites."

#### **5.4.9 SOLID WASTE**

One (1) commenter submitted one (1) comment regarding solid waste. If the project generates solid waste, the commenter stated that any generated solid waste should be properly classified as either hazardous or non-hazardous waste and disposed of properly.

#### **5.4.10 WATER RESOURCES**

One (1) commenter submitted one (1) comment regarding water resources. The commenter recommended utilizing best management practices during and after project activities to limit the amount of sediment and other pollutants entering water resources. The commenter also suggested preserving riparian or buffer areas around water resources.

### **6.0 LIST OF REFERENCES**

(U.S.D.A., 2020). USDA, Farm Service Agency, 2020. 1-TAP (Revision 4). FSA Handbook: Tree Assistance Program for State and County Offices.

## **APPENDIX A: DISTRIBUTION LIST AND LETTER TO INTERESTED PARTIES**

Distribution List

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
<b>Federal Agencies</b>					
National Marine Fisheries Service	Alaska Regional Office		P.O. Box 21668 709 W. 9th St., Rm 420 (UPS/Fed Ex only) Juneau, AK 99802-1668	alaska.webmaster@noaa.gov	Office: 907-586-7221 Fax: 907-586-7249
	Greater Atlantic Regional Fisheries Office		55 Great Republic Drive NOAA Fisheries Service Gloucester, MA 01930	nmfs.gar.garfo@noaa.gov	Office: 978-281-9300
	Pacific Islands Regional Office		Pacific Islands Regional Office 1845 Wasp Boulevard Building 176 Honolulu, HI 96818	piro.info@noaa.gov	Office: 808-725-5000 Fax: 808-725-5215
	Southeast Regional Office		263 13th Avenue South St. Petersburg, FL 33701		Office: 727-824-5301 Fax: 727-824-5320
	West Coast Regional Office		1201 Northeast Lloyd Portland, OR 97232		Office: 503-230-5400 Fax: 503-231-6893
U.S Fish and Wildlife Service	Martha Williams	USFWS Director	1849 C Street, NW Washington, DC 20240 United States		800-344-9453
	Paul Souza, Regional Director	Pacific Southwest Region	Federal Building 2800 Cottage Way Sacramento, CA 95825		916-414-6464
	Sara Boario, Regional Director	Alaska Region	1011 East Tudor Road Anchorage, AK 99503		907-786-3542
	Matt Hogan, Regional Director	Mountain-Prairie Region	Lake Plaza North 134 Union Boulevard Lakewood, CO 80225		303-236-7920
	Kyla Hastie, Acting Regional Director	Northeast Region	300 Westgate Center Drive Hadley, MA 01035		413-253-8200
	Mike Oetker, Acting Regional Director	Southeast Region	1875 Century Boulevard Atlanta, GA 30345		404-679-4000

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
	Chuck Traxler, Acting Regional Director	Midwest Region	5600 American Blvd. West Suite 990 Bloomington, MN 55437-1458		612-713-5360
	Amy Lueders, Regional Director	Southwest Region	500 Gold Avenue SW Albuquerque, NM 87103		505-248-6911
	Hugh Morrison, Regional Director	Pacific Region	911 NE 11th Avenue Portland, OR 97232		503-231-2176
<b>State Agencies</b>					
Alabama Department of Conservation and Natural Resources	Chuck Sykes, Director	Wildlife and Freshwater Fisheries Division, Montgomery Office	Alabama Department of Conservation and Natural Resources 64 N. Union Street Montgomery, Alabama 36130	<a href="mailto:dcnr.wffdirector@dcnr.alabama.gov">dcnr.wffdirector@dcnr.alabama.gov</a>	334-242-3465
Alabama Department of Environmental Management	Lance R. LeFleur, Director	Office of the Director	P.O. Box 301463 Montgomery, AL 36130-1463		334-271-7710
	Jeff Kitchens, Chief	Water Division		<a href="mailto:h2omail@adem.alabama.gov">h2omail@adem.alabama.gov</a>	Phone: 334-271-7823 Fax: 334-279-3051
Alabama Historical Commission	Lisa D. Jones Executive Director,	State Historic Preservation Officer	468 South Perry Street P.O. Box 300900 Montgomery, AL 36130	<a href="mailto:lisa.jones@ahc.alabama.gov">lisa.jones@ahc.alabama.gov</a>	Phone: 334-230-2690 Fax: 334-240-3477
Alaska Department of Natural Resources	Melissa Head, Natural Resource Manager 2	Alaska Department of Natural Resources	550 W. 7th. Avenue, Suite 1400 Anchorage, AK 99501	<a href="mailto:melissa.head@alaska.gov">melissa.head@alaska.gov</a>	Phone: 907-451-2719
Alaska Department of Environmental Conservation	Jason Brune, DEC Commissioner	Office of the Commissioner	Department of Environmental Conservation P.O. Box 111800 Juneau, Alaska 99811	<a href="mailto:dec.commissioner@alaska.gov">dec.commissioner@alaska.gov</a>	Phone: 907-465-5066 Fax: 907-465-5070
	Jason Olds, Acting Director	Division of Air Quality		<a href="mailto:jason.olds@alaska.gov">jason.olds@alaska.gov</a>	Phone: 907-465-5100 Fax: 907-465-5129
	Christina Carpenter, Director	Division of Environmental Health			907-269-7644



Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
	Jon Wendel, Compliance Manager	Division of Water – Compliance	410 Willoughby Avenue Juneau, AK 99811	jon.wendel@alaska.gov	Phone: 907-465-5364 Fax: 907-451-2188
	Gene McCabe, Program Manager	Division of Water – Wastewater Discharge Authorization	555 Cordova Street Anchorage, AK 99501	gene.mccabe@alaska.gov	Phone: 907-269-7580 Fax: 907-334-2415
Alaska Department of Fish and Game	Doug Vincent-Lang, Commissioner	Commissioner's Office	P.O. Box 115526 1255 W. 8th Street Juneau, AK 99811-5526	douglas.vincent- lang@alaska.gov	
	Benjamin Mulligan, Deputy Commissioner	Commissioner's Office		ben.mulligan@alaska.gov	907-267-2190
Alaska State Office of History & Archaeology	Judith E Bittner, Chief; OHA and SHPO	Alaska DNR, Office of History & Archaeology	550 West 7th Avenue Suite 1310	dnr.oha@alaska.gov	907-269-8715 Phone: 907-269-8721 Fax: 907-269-8908
Arizona Game and Fish Department	Ty E. Gray, Director	Director's Office	Arizona Game and Fish Department 5000 W. Carefree Highway Phoenix, AZ 85086-5000	<a href="mailto:customerservice@azgfd.gov">customerservice@azgfd.gov</a> <a href="mailto:rulemaking@azgfd.gov">rulemaking@azgfd.gov</a>	602-942-3000
Arizona Department of Environmental Quality	Karen Peters, Director	Director's Office	ADEQ Main Office 1110 W. Washington St. Phoenix, AZ 85007	<a href="mailto:peters.karen@azdeq.gov">peters.karen@azdeq.gov</a>	Phone: 602-771-2203 General Info: 602-771- 2300
Arizona State Historic Preservation Office	Kathryn Leonard, State Historic Preservation Officer	AZ State Parks, State Historic Preservation Office	State Historic Preservation Office 1110 W Washington St, Suite 100 Phoenix, AZ 85007	<a href="mailto:kleonard@azstateparks.gov">kleonard@azstateparks.gov</a>	Phone: 602-542-4009 Fax: 602-542-4180
Arkansas Game and Fish Commission	Austin Booth, Director	AGFC Administration	2 Natural Resources Drive Little Rock, Arkansas 72205	<a href="mailto:Austin.Booth@agfc.ar.gov">Austin.Booth@agfc.ar.gov</a>	Phone: 501-604-3808 Fax: 501-223-6448
	Bobby Martin, Commission Chairman	AGFC Commission	6 West Nottingham Lane, Rogers, AR 72758	<a href="mailto:Bobby.Martin@agfc.ar.gov">Bobby.Martin@agfc.ar.gov</a>	479-640-5434

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Ohio Department of Natural Resources	Mary Mertz, Director		2045 Morse Road Columbus, OH 43229-6693	<a href="mailto:mary.mertz@dnr.ohio.gov">mary.mertz@dnr.ohio.gov</a>	614-265-1005
Ohio Environmental Protection Agency	Anne M. Vogel, Director		Ohio EPA - Director's Office P.O. Box 1049 Columbus, Ohio 43216-1049	<a href="mailto:supora.hunter@epa.ohio.gov">supora.hunter@epa.ohio.gov</a>	614-644-2782
Ohio History Connection	Burt Logan, SHPO	State Historic Preservation Office	800 E. 17th Avenue Columbus, OH 43211-2474	<a href="mailto:blogan@ohiohistory.org">blogan@ohiohistory.org</a>	Phone: 614-298-2000 Fax: 614-298-2037
Oklahoma Department of	J.D. Strong, Director		PO BOX 53465 OKC, OK 73152	<a href="mailto:jd.strong@odwc.ok.gov">jd.strong@odwc.ok.gov</a>	405-522-6279

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
Wildlife Conservation					
Oklahoma Department of Environmental Quality	General Contact Info		P.O.Box 1677 Oklahoma City, OK, 73101-1677		Phone: 405-702-0100 Fax: 405-702-7102
Oklahoma Historical Society	Lynda Ozan, Deputy SHPO	State Historic Preservation Office	800 Nazih Zuhdi Drive Oklahoma City, OK 73105-7917	<a href="mailto:lynda.ozan@history.ok.gov">lynda.ozan@history.ok.gov</a>	405-522-4484
Oregon Department of Fish and Wildlife	Curt Melcher, Director	Director's Office	4034 Fairview Industrial Drive SE Salem, OR 97302	<a href="mailto:curt.melcher@odfw.oregon.gov">curt.melcher@odfw.oregon.gov</a>	503-947-6044
Oregon Department of Environmental Quality	Leah Feldon, Director		700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100	<a href="mailto:Leah.FELDON@deq.oregon.gov">Leah.FELDON@deq.oregon.gov</a>	503-229-5696
Oregon Parks & Recreation Department	Christine Curran, Deputy SHPO	State Historic Preservation Office	725 Summer Street NE, Suite C Salem, OR 97301	<a href="mailto:chrissy.curran@opr.oregon.gov">chrissy.curran@opr.oregon.gov</a>	503-986-0684
Pennsylvania Department of Environmental Protection	General Contact Info		Rachel Carson State Office Building 400 Market Street Harrisburg, PA 17101	<a href="mailto:RA-epcontactus@pa.gov">RA-epcontactus@pa.gov</a>	717-772-5987
Pennsylvania Historical and Museum Commission	Andrea Lowery, SHPO	State Historic Preservation Office	Commonwealth Keystone Building, Second Floor 400 North Street Harrisburg, PA 17120-0093		
	Andrea MacDonald, Deputy SHPO			<a href="mailto:amacdonald@pa.gov">amacdonald@pa.gov</a>	Phone: 717-783-8946 Fax: 717-772-0920
Rhode Island Department of Environmental Management	Terrence Gray, Director	Rhode Island Department of Environmental Management	235 Promenade Street Providence, RI 02908	<a href="mailto:terry.gray@dem.ri.gov">terry.gray@dem.ri.gov</a>	Phone: 401-222-2771 ext. 2772412
	Phillip Edwards, Chief	Division of Fish and Wildlife		<a href="mailto:Phillip.Edwards@dem.ri.gov">Phillip.Edwards@dem.ri.gov</a>	Phone: 401-789-0281

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
Rhode Island Historical Preservation & Heritage Commission	Jeff Emidy, Interim SHPO, Executive Director		150 Benefit Street Providence, RI 02903	<a href="mailto:Jeffrey.Emidy@preservation.ri.gov">Jeffrey.Emidy@preservation.ri.gov</a>	Phone: 401-222-4130 Fax: 401-222-2968
South Carolina Department of Natural Resources	Robert Boyles, Executive Director		326 Little Brooke Ln, West Columbia, SC 29172	<a href="mailto:BoylesR@dnr.sc.gov">BoylesR@dnr.sc.gov</a>	803-734-4007 843-953-9304
South Carolina Department of Health and Environmental Control	Dr. Edward Simmer, Agency Director		2600 Bull Street, Columbia, SC 29201	<a href="mailto:info@dhec.sc.gov">info@dhec.sc.gov</a>	803-898-0124
South Carolina Department of Archives & History	Dr. Eric Emerson, SHPO		8301 Parklane Road Columbia, SC 29223-4905	<a href="mailto:eemerson@scdah.sc.gov">eemerson@scdah.sc.gov</a>	Phone: 803-896-6187 Fax: 803-896-6167
South Dakota Game, Fish, and Parks	Kevin Robling, Department Secretary		523 East Capitol Ave Pierre, SD 57501	<a href="mailto:Kevin.Robling@state.sd.us">Kevin.Robling@state.sd.us</a>	+1-605-773-3718
South Dakota Department of Agriculture & Natural Resources	Hunter Roberts, Department Secretary		523 E Capitol Ave, Pierre SD 57501	<a href="mailto:DANRmail@state.sd.us">DANRmail@state.sd.us</a>	605-773-5559
South Dakota State Historical Society	Ted Spencer, SHPO Cultural Heritage Center	State Historic Preservation Office	900 Governors Drive Pierre, SD 57501	<a href="mailto:ted.spencer@state.sd.us">ted.spencer@state.sd.us</a>	Phone: 605-773-6296 Fax: 605-773-6041
Tennessee Wildlife Resources Agency	Victoria Lankford	Wildlife & Forestry Division	5107 Edmondson Pike Ellington Agricultural Center Nashville, TN 37211	<a href="mailto:Victoria.P.Lankford@tn.gov">Victoria.P.Lankford@tn.gov</a>	615-781-6610
Tennessee Department of Environment and Conservation	Eric Ward, Communications Director	TDEC Office of Communications	312 Rosa L. Parks Ave. - Tennessee Tower - 2nd Floor Nashville, TN 37243	<a href="mailto:Eric.Ward@tn.gov">Eric.Ward@tn.gov</a>	615-289-4516

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
Tennessee Historical Commission	Patrick McIntyre, Jr., Executive Director, SHPO		2941 Lebanon Pike Nashville, TN 37243-0442	<a href="mailto:patrick.mcintyre@tn.gov">patrick.mcintyre@tn.gov</a>	Phone: 615-532-1550 Fax: 615-532-1549
Texas Parks and Wildlife Department	David Yoskowitz, Ph.D., Executive Director		4200 Smith School Road Austin, TX 78744		Phone: 512-389-4802 Fax: 512-389-4814
Texas Commission on Environmental Quality	Erin E. Chancellor, Acting Executive Director		Erin Chancellor, MC 109 TCEQ P.O. Box 13087 Austin, TX 78711-3087	<a href="mailto:info@tceq.texas.gov">info@tceq.texas.gov</a>	512-239-3900
Texas Historical Commission	Mark S. Wolfe, SHPO		P.O. Box 12276 Austin, TX 78711-2276	<a href="mailto:Mark.wolfe@thc.texas.gov">Mark.wolfe@thc.texas.gov</a>	Phone: 512-463-6100 Fax: 512-463-8222
Utah Division of Wildlife Resources	Justin Shirley, Director		1594 W. North Temple, Salt Lake City, UT 84116	<a href="mailto:justinshirley@utah.gov">justinshirley@utah.gov</a>	801-538-4889
Utah Department of Environmental Quality	Kimberly D. Shelley, Executive Director	Executive Director's Office	P.O. Box 144810 Salt Lake City, UT 84114-4810	<a href="mailto:kshelley@utah.gov">kshelley@utah.gov</a>	801-536-4404
Utah Division of State History	Christopher Merritt, Ph.D., RPA, SHPO		300 Rio Grande Salt Lake City, UT 84101	<a href="mailto:cmerritt@utah.gov">cmerritt@utah.gov</a>	Phone: 801-245-7263 Fax: 801-355-0587
Vermont Agency of Natural Resources	Christopher Herrick, Commissioner	Vermont Fish and Wildlife Department	1 National Life Drive, Davis 2 Montpelier, VT 05620-3702	<a href="mailto:fwinformation@vermont.gov">fwinformation@vermont.gov</a>	802-828-1454
	John Beling, Commissioner	Vermont Department of Environmental Conservation		<a href="mailto:john.beling@vermont.gov">john.beling@vermont.gov</a>	802-828-1556
Vermont Agency of Commerce and Community Development	Laura V. Trieschmann, SHPO	Division for Historic Preservation	One National Life Drive 6th Floor Davis Building Montpelier, VT 05620-1201	<a href="mailto:laura.trieschmann@vermont.gov">laura.trieschmann@vermont.gov</a>	Phone: 802-505-3579 Fax: 802-828-3206
Virginia Department of Wildlife Resources	Ryan Brown, Executive Director		P.O. Box 90778, Henrico, VA 23228-0778	<a href="mailto:RYAN.BROWN@DWR.VIRGINIA.GOV">RYAN.BROWN@DWR.VIRGINIA.GOV</a>	804-367-9231

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
Virginia Department of Environmental Quality	Mike Rolband, Director		P.O. Box 1105 Richmond, VA 23218	<a href="mailto:Michael.rolband@DEQ.virginia.gov">Michael.rolband@DEQ.virginia.gov</a>	804-698-4020
Virginia Department of Historic Resources	Julie Langan, SHPO		2801 Kensington Avenue Richmond, VA 23221	<a href="mailto:julie.langan@dhr.virginia.gov">julie.langan@dhr.virginia.gov</a>	Phone: 804-482-6087
Washington Department of Fish and Wildlife	Kelly Susewind, Director		Natural Resources Building 1111 Washington St. SE Olympia, WA 98501	<a href="mailto:Kelly.Susewind@dfw.wa.gov">Kelly.Susewind@dfw.wa.gov</a> <a href="mailto:director@dfw.wa.gov">director@dfw.wa.gov</a>	Phone: 360-902-2200 Fax: 360-902-2947
Department of Ecology State of Washington	Laura Watson, Director		300 Desmond Drive SE, Lacey, WA 98503	<a href="mailto:laura.watson@ecy.wa.gov">laura.watson@ecy.wa.gov</a>	360-407-6000
Washington Department of Archaeology & Historic Preservation	Dr. Allyson Brooks, SHPO		1100 Capitol Way South Suite 30 Olympia, WA 98501  Mailing Address: P.O. Box 48343 Olympia, WA 98504-8343	<a href="mailto:allyson.brooks@dahp.wa.gov">allyson.brooks@dahp.wa.gov</a>	Phone: 360-586-3065 Fax: 360-586-3067
West Virginia Division of Natural Resources	Brett W. McMillion, Director		324 4th Ave. South Charleston, WV 25303	<a href="mailto:Brett.W.McMillion@wv.gov">Brett.W.McMillion@wv.gov</a>	Phone: 304-558-6200
West Virginia Department of Environmental Protection	Harold Ward, Cabinet Secretary		601 57th Street SE Charleston, WV 25304	<a href="mailto:HAROLD.D.WARD@WV.GOV">HAROLD.D.WARD@WV.GOV</a>	Phone: 304-926-0499 Ext.43719 Fax: 304-926-0484
West Virginia Department of Arts, Culture & History	Randall Reid-Smith, SHPO	West Virginia Division of Culture & History	1900 Kanawha Boulevard East Charleston, WV 25305-0300		Phone: 304-558-0220 Fax: 304-558-2779
	Susan Pierce, Deputy SHPO	Historic Preservation Office		<a href="mailto:Susan.M.Pierce@wv.gov">Susan.M.Pierce@wv.gov</a>	Phone: 304-558-0240

Organization	Contact Name	Affiliation	Address	Email	Phone Number(s)
Wisconsin Department of Natural Resources	Adam Payne, Secretary		101 S. Webster Street PO Box 7921 Madison, WI 53707-7921	<a href="mailto:adam.payne@wisconsin.gov">adam.payne@wisconsin.gov</a>	608-576-8719
Wisconsin Historical Society	Daina Penkiunas, SHPO		816 State Street Madison WI 53706	<a href="mailto:daina.penkiunas@wisconsinhistory.org">daina.penkiunas@wisconsinhistory.org</a>	Phone: 608-264-6511 Fax: 608-264-6504
Wyoming Game & Fish Department	Brian Nesvik, Director		5400 Bishop Blvd Cheyenne, WY 82006		307-777-4501
Wyoming Department of Environmental Quality	Todd Parfitt, Director		200 West 17th St. Cheyenne, WY 82002	<a href="mailto:jody.paessler1@wyo.gov">jody.paessler1@wyo.gov</a>	307-777-7937
Wyoming State Historic Preservation Office	Sara Needles, SHPO		2301 Central Avenue 3rd Floor Cheyenne, WY 82002	<a href="mailto:sara.needles@wyo.gov">sara.needles@wyo.gov</a>	Phone: 307-777-7498 Fax: 307-777-6421
<b>Public and Private Organizations</b>					
National Conference of State Historic Preservation Officers	Ramona Bartos, President		Officers Suite 342 Hall of the States 444 N. Capitol Street NW Washington, DC 20001	<a href="https://ncshpo.org/contact-us/">https://ncshpo.org/contact-us/</a>	Phone: 202-624-5465 Fax: 202-624-5419
National Association of Tribal Historic Preservation Officers (NATHPO)	General Contact Info		PO Box 19189 Washington, DC 20036-9189	<a href="mailto:info@nathpo.org">info@nathpo.org</a>	202-628-8476



## Interested Parties Letter



United States  
Department of  
Agriculture

Farm  
Production  
and  
Conservation

Farm  
Service  
Agency

Office of Administrator  
1400 Independence Ave, SW  
Stop 0501  
Washington, DC  
20250-0501

Voice: 202-720-3467  
Fax: 202-720-9105

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October 10, 2023

Re: Programmatic Environmental Assessment for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program

Dear Interested Reader:

The United States Department of Agriculture (USDA) Farm Production and Conservation Business Center's (FPAC-BC) Environmental Activities Division (ENV) is developing a Programmatic Environmental Assessment for USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP). The PEA will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act, and 7 Code of Federal Regulations (CFR) Part 799, FSA Implementing Regulations for NEPA. You are receiving this letter because you have been identified as an interested party and/or stakeholder for this project. We encourage you to review the project and provide scoping comments; this letter is not intended as part of statutory consultation efforts.

The USDA FSA is an agency that serves farmers and ranchers through the delivery of effective and efficient agricultural programs. The agency provides farmers with a strong safety net through the administration of farm commodity and disaster programs.

The purpose of TAP is to provide financial assistance to eligible tree, bush, and vine growers (orchards, nurseries, vineyards, etc.) to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters, including but not limited to storms, wind, flooding, and infestation by invasive species or disease. TAP was made a permanent disaster program by The Agricultural Act of 2014 (the 2014 Farm Bill). Trees, bushes, and vines that are eligible for TAP are those from which an annual crop is produced for commercial purposes. Individual eligible orchardist or nurse tree growers are limited to 1,000 cumulative total acres annually of TAP assistance.

Most TAP rehabilitation actions currently require the preparation of site-specific environmental documentation and initiation of site-specific consultations; this approach elongates the application process and delays the completion of rehabilitation activities. The following rehabilitation actions are relevant to the TAP program and are currently covered under listed Categorical Exclusions (CATEXs), which are a class of actions that a federal agency has determined, after review by CEQ, do not individually or cumulatively have a significant effect on the human environment and do not require further environmental review:

- Bare land planting or planting without site preparation.
- Pest management (consistent with all labelling and use requirements).
- Thinning and pruning of plants.

USDA FSA TAP

October 3, 2023

- Tree protection including plastic tubes.
- Disturbance within the limits of current tillage.
- Seedling shrub planting.

The following relevant activities are currently considered supported CATEXs and require environmental review prior to implementation:

- Land-clearing operations of no more than 15 acres.
- Nutrient management.
- Tree planting when trees have root balls of one gallon container size or smaller.

FSA is proposing a programmatic NEPA approach to TAP that would streamline the application, environmental compliance, and funding process. The goals of this PEA are to identify a suite of common management activities which occur under TAP, develop a comprehensive list of environmental screening criteria to limit the propensity for environmental impacts, accomplish program- and nation-wide agency consultation to the extent possible, and analyze the potential human environmental impacts of the program nationwide.

The PEA will consist of three project alternatives. Two alternatives will consider rehabilitation work, including pruning, removing, and salvaging existing trees and woody vegetation, preparing the land, and replanting new woody vegetation in areas where mortality occurs. The third alternative is a “no action” alternative where FSA continues to administer TAP under existing conditions.

The FSA has started to establish environmental screening criteria to minimize the potential environmental, social, and economic impacts of the Proposed Action. To facilitate a more efficient environmental evaluation, these criteria will serve as guidelines for projects that are subject to this programmatic review. These criteria include:

- Project activities that would not result in ground disturbance below the level of previous disturbance.
- Project activities would not occur in designated critical habitat of threatened and endangered species.
- Project activities would occur in areas outside of a 100-foot buffer surrounding bodies of water or wetlands.
- Project activities would not involve the clearing of woody vegetation other than eligible trees, bushes, or vines.
- Land-clearing of eligible orchards, vineyards, and shrubs associated with the program would not exceed 1,000 acres (the maximum cumulative total acres eligible for TAP assistance per operation annually).

We appreciate your review of this material and any comments on issues that would be of concern to your office. FSA is particularly interested in receiving feedback on relevant screening criteria which would minimize program impacts to regulated environmental resources and reduce the need for downstream consultation effort in site-specific documentation. Please suggest screening criteria which, if applied to the TAP program, would allow for the completion of rehabilitation activities with minimal site-specific

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consideration by your agency. These criteria can include both limitations on the scale or type of rehabilitation activities covered by the PEA and/or siting.

We intend to provide you with access to the Draft EA when the document is completed. Please inform us if someone else with your agency other than you should be notified of the availability of the Draft EA. Please send your responses and any questions to Emily Cohen, Solv, LLC at 703-760-4801, extension 194 or by email at [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com) within 30 days of receiving this letter. Thank you in advance for your assistance in this effort.

Sincerely,

 Date: 2023.10.03  
15:31:13 -04'00'

Zach Ducheneaux  
USDA Farm Service Agency  
Administrator

## **APPENDIX B: INDEX OF COMMENTS BY SOURCE AND DATE**

Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A1	11/3/2023	Melissa Marinovich	Nebraska Game and Parks Commission	Public Outreach	The commenter requested that herself (melissa.marinovich@nebraska.gov) and Jenny Prenosil (jennifer.prenosil@nebraska.gov) be added to the distribution list. The commenter also requested a notification when the Draft EA is available for review.	Email
A2	11/6/2023	Hannah Humphrey	Missouri Department of Natural Resources	Karst Geography	The commenter noted that karst topography is present in the state of Missouri and cautioned that extra care should be taken to minimize disturbance of land in or around karst features. The commenter also recommended consulting additional resources and contacting the Missouri Geological Survey if the project requires a full Geologic Assessment.	Email
A2	11/6/2023	Hannah Humphrey	Missouri Department of Natural Resources	Water Resources	The commenter recommended utilizing best management practices during and after project activities to limit the amount of sediment and other pollutants entering water resources. The commenter also suggested preserving riparian or buffer areas around water resources.	Email
A2	11/6/2023	Hannah Humphrey	Missouri Department of Natural Resources	Permitting	The commenter noted that permits may be required in the state of Missouri for projects that disturb an area of one acre or more, or valuable resource waters. The commenter also offered additional information for land disturbance permits in Missouri.	Email

Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A2	11/6/2023	Hannah Humphrey	Missouri Department of Natural Resources	Air Quality	The commenter noted that there are restrictions in the state of Missouri regarding the emissions of fugitive particulate matter, such as dust, from a project site. Additionally, with some limited exceptions, the open burning of refuse, construction, demolition, and trade waste are restricted in Missouri.	Email
A3	11/9/2023	Michelle Ensey	New Mexico Historic Preservation Division	Public Outreach	The commenter requested that a copy of the Draft EA, when available, be emailed to the New Mexico State Historic Preservation Officer.	Email
A4	11/13/2023	Kirk Morrow	Nebraska Department of Environment & Energy	Screening Criteria	The commenter expressed support for the project and suggested including the following screening criteria for projects: "Projects that will not take place on land parcels where land disturbance, or excavation, is restricted due to previous environmental agreements or covenants."	Email
A5	11/16/2023	Tina Webber	Pennsylvania State Historic Preservation Officer	Permitting	The commenter offered clarification on how to submit the project online for consultation under Section 106 and the PA State History Code.	Email
A6	11/17/2023	Christopher Romanoski	NJ Department of Environmental Protection - Historic Preservation Office	Screening Criteria	The commenter noted that they could provide additional comments if USDA determines that the project should require undergoing the Section 106 consultation process. If necessary, the commenter also recommended tools that USDA could use to determine potential impacts to historic or archaeological resources before initiating consultation.	Email

Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A7	11/20/2023	Dalton Barnum	Arkansas Department of Energy & Environment	Request for Information	The commenter requested clarification on the length of the public scoping period.	Email
A8	11/29/2023	Kimberly Cook	Wisconsin Historical Society	Screening Criteria	The commenter noted that the state of Wisconsin has a law prohibiting ground-disturbing activities within the boundaries of any burial site mapped in the Wisconsin Archaeological Site Inventory. The commenter requested that any projects that disturb more area than the pre-existing plantings should review Wisconsin burial records to ensure that the project is not within any known burial sites.	Email
A9	12/7/2023	Branden Scott	Iowa State Historic Preservation Office	Cultural and Historic Resources	The commenter stated that this program includes activities such as tree/bush/vine planting and removal which could potentially impact cultural resources, including burial sites.	Email
A9	12/7/2023	Branden Scott	Iowa State Historic Preservation Office	Screening Criteria	One of the criteria is "Project activities that would not result in ground disturbance below the level of previous disturbance." The commenter noted that tree roots often extend deeper than existing plow zones in agricultural settings. The commenter noted that the criteria seem to be based on surficial disturbances at the time of planting/removal and may not take into consideration the long-term changes in vegetation.	Email

Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A9	12/7/2023	Branden Scott	Iowa State Historic Preservation Office	Cultural and Historic Resources	The commenter recommended that USDA take into account archaeological properties in the planning process to ensure adverse effects to archaeological resources are avoided or minimized.	Email
A10	12/7/2023	Mary-Ellen Walsh	Arizona State Historic Preservation Office	Public Outreach	The commenter requested that any future information be sent directly to mwalsh@azstateparks.gov but clarified that any consultation letters should be addressed to the State Historic Preservation Officer, Kathryn Leonard.	Email
A11	12/7/2023	Yvette Montanez	West Virginia State Historic Preservation Office	Screening Criteria	The commenter requested that the environmental screening criteria should be expanded to state that "project activities would not occur within the boundaries of documented archaeological sites".	Email
A11	12/7/2023	Yvette Montanez	West Virginia State Historic Preservation Office	Cultural and Historic Resources	The commenter recommended that USDA consider known archaeological sites and develop an inadvertent discovery plan that outlines procedures and notification protocols if an archaeological site, unmarked burial, or any other cultural resource be unintentionally impacted.	Email
A11	12/7/2023	Yvette Montanez	West Virginia State Historic Preservation Office	Public Outreach	The commenter requested future updates on USDA's plan for tribal consultation in respect to the development of the PEA.	Email
A11	12/7/2023	Yvette Montanez	West Virginia State Historic Preservation Office	Cultural and Historic Resources	The commenter noted that the project should have no direct effects on architectural resources and expressed support for the proposed guidelines to streamline TAP reviews.	Email



Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A12	12/8/2023	Russell Hooten	Texas Parks and Wildlife Department	Biological Resources	The commenter noted that land clearing activities could impact migratory birds, especially when considering dead or dying trees that could provide cover and suitable feeding, loafing, and nesting habitat. The commenter recommended scheduling clearing of any trees, bushes, or vines to occur outside of the March 15 to September 15 migratory bird nesting season. If vegetation must be cleared during the nesting season, the commenter recommended that the impacted vegetation should be surveyed for active nests by a qualified biologist.	Email
A12	12/8/2023	Russell Hooten	Texas Parks and Wildlife Department	Biological Resources	The commenter recommended that USDA review the most current TPWD annotated county lists of rare species for the county in which the federal action would occur, as state listed species or species of greatest conservation need (SGCN) could be present within project areas depending upon habitat availability. If during construction the project area is found to contain SGCN or protected species, natural plant communities, or special features, the commenter recommended that precautions be taken to avoid impacts.	Email

Commenter	Date	Name	Affiliation	Nature of Comment	Contents of Comment	Comment Method
A12	12/8/2023	Russell Hooten	Texas Parks and Wildlife Department	Biological Resources	The commenter recommended that USDA implement best management practices (BMPs) to minimize impacts to biological resources during any action. The recommended BMPs include using existing facilities where possible for laydown areas to avoid impacting undisturbed habitat; placing sediment control fencing to exclude wildlife from construction areas; minimizing unintentional trapping of wildlife during trenching activities through monitoring and the implementation of escape ramps; and avoiding the use of mesh netting during soil stabilization and revegetation activities.	Email
A13	1/4/2024	Lucy Cross	Arkansas Department of Energy & Environment	Biological Resources	The commenter noted that the management of any trimmed or removed vegetation should follow all applicable local, state, and federal regulations. For any further questions on these criteria, the commenter recommended contacting the Arkansas Division of Environmental Quality's Office of Land Resources.	Email
A13	1/4/2024	Lucy Cross	Arkansas Department of Energy & Environment	Solid Waste	The commenter stated that any solid waste generated from the project should be properly classified as either hazardous or non-hazardous waste and disposed of properly. For more information, the commenter recommended contacting the Arkansas Division of Environmental Quality's Office of Land Resources.	Email

## **APPENDIX C: PUBLIC COMMENTS RECEIVED**

**From:** [kimberly.cook@wisconsinhistory.org](mailto:kimberly.cook@wisconsinhistory.org)  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Subject:** 23-2351 - Programmatic Agreement - FSA Tree Assistance Program (TAP)  
**Date:** Wednesday, November 29, 2023 3:21:45 PM

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Dear Emily Cohen,

Thank you for notice of a potential Programmatic Environmental Assessment for the Farm Service Agency Tree Assistance Program. We support this endeavor and would be happy to comment subsequent drafts. In this initial stage, we have one comment on screening criteria. The state of Wisconsin has a burial law (Wis Stat 157.70) that prohibits ground disturbing activity within the boundaries of a burial site, including Native American burial sites, as they are mapped in our Archaeological Site Inventory (ASI). There is, however, an exemption for "normal agriculture or silvicultural practices which do not disturb the human remains in a burial site or the surface characteristics of a burial site" [157.70(2)r]. We would request that projects proposing to disturb more ground than the plantings they are replacing either do not screen, or the screening includes a quick search of our burial records to make sure they are not in a burial site. Wisconsin's Farm Service office has a person who regularly reviews this data and is familiar with what is available. These projects are rarely, if ever, in recorded burial sites but we would like to see something in the screening process that allows for the opportunity to catch the few that might be before any inadvertent discoveries happen.

Let me know if you have any questions or concerns about our comment. Please submit all materials for review to [compliance@wisconsinhistory.org](mailto:compliance@wisconsinhistory.org) for log in and review.

Thank you,

Kimberly Cook  
Compliance Reviewer  
State Historic Preservation Office

Wisconsin Historical Society  
816 State Street, Madison, WI 53706

[kimberly.cook@wisconsinhistory.org](mailto:kimberly.cook@wisconsinhistory.org)

**Wisconsin Historical Society**  
[Collecting, Preserving, and Sharing Stories Since 1846](#)

**From:** [Webber, Tina](#)  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Subject:** 20231116144231865.pdf  
**Date:** Thursday, November 16, 2023 2:37:38 PM  
**Attachments:** 20231116144231865.pdf

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Thank you for contacting the PA SHPO. We carry out consultation responsibilities under Section 106 and the State History Code through our online system called PA-SHARE. You will need to submit the project via PA-SHARE in accordance with the guidance provided here:

<https://www.phmc.pa.gov/Preservation/About/Documents/ER%20Consultation%20with%20PA%20SHPO%20Guidance%20Overview.pdf>.

If the project has not been previously reviewed by our office, you would send it as a new ER project submission. Projects with previous consultation would be sent as supplemental submissions.

Answers to common questions about PA-SHARE may be found in [PA-SHARE FAQ](#). If after reviewing this information, you have additional questions, please contact the PA-SHARE help desk at [pashare@pa.gov](mailto:pashare@pa.gov).

---

**From:** [Romanoski, Christopher \[DEP\]](#)  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Cc:** [Bianchi, Lucy \[DEP\]](#); [Baratta, Meghan \[DEP\]](#); [West-Rosenthal, Jesse \[DEP\]](#)  
**Subject:** Programmatic Environmental Assessment for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program, (HPO Log #24-0171-1)  
**Date:** Friday, November 17, 2023 11:45:23 AM

---

**HPO Log #24-0171-1**  
**HPO-K2023-117**

RE: Programmatic Environmental Assessment for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program

Dear Ms. Cohen:

The Historic Preservation Office (HPO) is in receipt of the United States Department of Agriculture's (USDA) letter dated October 10, 2023 regarding the Programmatic Environmental Assessment for the Farm Service Agency's Tree Assistance Program.

The Historic Preservation Office reviews projects for their effects on historic resources when federal funding, licensing, or permitting is involved. The HPO also reviews projects requiring Freshwater Wetlands, Waterfront Development, Upland Development, CAFRA and Highland Preservation Area Approval permits issued by the State of New Jersey's Division of Land Resource Protection, as well as environmental assessments under Executive Order 215. If USDA determines that any of the work in the Tree Assistance Program constitutes an undertaking pursuant to 36 CFR Part 800, as defined in §800.16 (y), the HPO would have ability to comment and looks forward to receiving the documentation therein.

We strongly encourage utilizing the HPO's public-facing ARCGIS database, called LUCY, to determine potential impacts to historic or archaeological resources before initiating consultation under the above regulation. LUCY can be accessed through this link: <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=6706aacec2a7e46489f6d4dabba02fc9c>.

Finally, please note that the HPO utilizes an e-submittal system for incoming correspondence to the office. Information on the e-submittal system, including a link to download the e-submittal form, can be found on our website here: [INFO \(nj.gov\)](#).

*This information is provided as informal notes to you and does not constitute identification-level cultural resources survey under Section 106 of the National Historic Preservation Act or other law or regulation. These notes do not constitute project review under any state or federal law. The absence of previously identified cultural resources does not imply that there are no eligible historic properties in the requested area. Further identification of cultural resources may be required under one or more historic preservation review processes depending on project funding, licensing, or permitting.*

If you have any questions regarding the above, please feel free to reach out to me using the below information.

Sincerely,  
Christopher

**Christopher Romanoski** (he/him/his)

**Program Specialist 1**

Historic Preservation Office

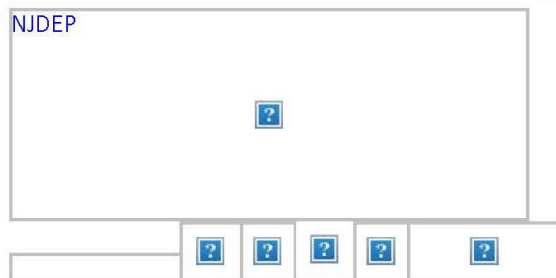
NJ Department of Environmental Protection

501 East State Street, Trenton, NJ 08625

Christopher.Romanoski@dep.nj.gov

T (609) 292-0061 | F (609) 984-0578

NEW HPO phone number: (609) 940-4312



---

**From:** [Branden Scott](#)  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Cc:** [shpo106@iowaeda.com](mailto:shpo106@iowaeda.com); [sara.andre@iowaeda.com](mailto:sara.andre@iowaeda.com); [heather.gibb@iowaeda.com](mailto:heather.gibb@iowaeda.com)  
**Subject:** R&C 231100836 - FSA - Statewide - Programmatic Environmental Assessment for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program,  
**Date:** Wednesday, December 6, 2023 8:41:57 AM

---

Ms. Cohen:

We appreciate the opportunity to provide comments on the proposed Programmatic Environmental Assessment for the USDA FSA's Tree Assistance Program. We have reviewed the submitted materials, and we have the following comments:

We recognize that this program serves tree, bush, and vine growers. The nature of their businesses and their access to FSA programs is integral to their respective industries. We also recognize FSA's need for a Programmatic Environmental Assessment to assist growers and streamline processes.

Concerning historic properties and compliance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR 800, which directs agencies to consider affects to historic properties for their undertakings, we note that activities such as tree/bush/vine planting and removal can affect archaeological resources, including burial sites. Also, tree roots often go deeper than existing plowzones in agricultural settings. The exclusion about not having a disturbance deeper than the existing disturbance seems to be based on surficial disturbances at the time of planting/removal and might not take into consideration long-term effects caused by changes in vegetation. Roots commonly displace subsurface artifacts at archaeological sites, which can affect historic property integrity. The Iowa SHPO recommends that FSA take into account archaeological properties in the planning process to ensure adverse effects to archaeological resources are avoided or minimized.

You will not receive a hard copy of this email. It is the submitter's responsibility to maintain the official file of record. If you have any questions or comments, please feel free to contact our office.

With kind regards,  
Branden K. Scott  
Archaeologist, State Historic Preservation Office  
[branden.scott@iowaeda.com](mailto:branden.scott@iowaeda.com) | 515.348.6291 | [culture.iowaeda.com/shpo](http://culture.iowaeda.com/shpo)

Iowa Economic Development Authority 



**From:** [Marinovich, Melissa](#)  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Cc:** [Prenosil, Jennifer](#)  
**Subject:** RE: Programmatic Environmental Assessment for the USDA FSA TAP  
**Date:** Friday, November 3, 2023 9:26:38 AM

---

Good morning, Emily,

Would you please add my name and Jenny Prenosil (copied here) as the Nebraska Game and Parks Commission contacts regarding the development of this PEA? We would like to be notified when the Draft EA is available for review and will provide scoping comments as appropriate. Thank you!

Thanks,  
Melissa

**Melissa Marinovich**

Assistant Division Administrator – E & T Species | Wind & Energy | Environmental Review  
Nebraska Game and Parks Commission  
Office: (402) 471-5422 | Email: [melissa.marinovich@nebraska.gov](mailto:melissa.marinovich@nebraska.gov)

**From:** [Emily Cohen](#)  
**To:** ["Mary-Ellen Walsh"](#)  
**Cc:** [Emily Cohen](#)  
**Subject:** RE: USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment  
**Date:** Thursday, December 7, 2023 9:55:03 AM  
**Attachments:** [~WRD0001.ipq](#)  
[image001.jpg](#)  
[image002.png](#)  
[image003.jpg](#)  
[image004.png](#)

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Hi Mary-Ellen,

Thank you for your response to the Interested Parties letter. We will include both you and Kathryn Leonard on any updates on the FSA proposed Tree Assistance Program Programmatic Environmental Assessment project.

Thanks,  
Emily



**Emily Cohen** 406 239 6932  
[emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
[www.solvllc.com](http://www.solvllc.com)

---

**From:** Mary-Ellen Walsh <[mwalsh@azstateparks.gov](mailto:mwalsh@azstateparks.gov)>  
**Sent:** Thursday, December 7, 2023 9:50 AM  
**To:** [emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
**Subject:** Re: USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment

Hi Emily

Please send me future information directly, though address any consultation letters to Kathryn Leonard, State Historic Preservation Officer.

Thank you

**Mary-Ellen Walsh, M.A., RPA**  
**Cultural Resources Compliance Manager**  
**State Historic Preservation Office**  
*A Division of Arizona State Parks & Trails*  
**Please use [azshpo@azstateparks.gov](mailto:azshpo@azstateparks.gov) for all consultation!**

1110 West Washington Street, Suite 100  
Phoenix, AZ 85007-2957  
Phone: 602-542-7120  
Cell: 480-202-8914

Email: [mwalsh@azstateparks.gov](mailto:mwalsh@azstateparks.gov)  
Web: <http://AZStateParks.com/SHPO>

On Thu, Nov 9, 2023 at 10:49 AM AZSHPO - AZPARKS <[azshpo@azstateparks.gov](mailto:azshpo@azstateparks.gov)> wrote:

SHPO-2023-1414 (172182)

----- Forwarded message -----

From: **Kathryn Leonard** <[kleonard@azstateparks.gov](mailto:kleonard@azstateparks.gov)>

Date: Thu, Nov 2, 2023 at 6:43 PM

Subject: Fwd: USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment

To: AZSHPO - AZPARKS <[azshpo@azstateparks.gov](mailto:azshpo@azstateparks.gov)>

**Kathryn Leonard**  
**State Historic Preservation Officer**  
**Arizona State Historic Preservation Office**  
**Arizona State Parks & Trails**  
1110 W Washington St Suite 100  
Phoenix, AZ 85007  
(602)542-4009  
[kleonard@azstateparks.gov](mailto:kleonard@azstateparks.gov)  
[www.AZStateParks.com](http://www.AZStateParks.com)

Image removed by sender.



----- Forwarded message -----

From: <[kevin.ebert@solvllc.com](mailto:kevin.ebert@solvllc.com)>

Date: Thu, Nov 2, 2023 at 2:04 PM

Subject: USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment

To: <[kleonard@azstateparks.gov](mailto:kleonard@azstateparks.gov)>

Dear Interested Reader,

I am a contracted environmental scientist assisting the U.S. Department of Agriculture (USDA) Farm Production and Conservation Business Center's (FPAC-BC) Environmental Activities Division (ENV) in developing a Programmatic Environmental Assessment for USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP). The attached letter describes details of the project and provides instructions for how to comment.

Thank you,  
Kevin Ebert



**Kevin Ebert**

703 760 4801 x188  
[kevin.ebert@solvllc.com](mailto:kevin.ebert@solvllc.com)  
[www.solvllc.com](http://www.solvllc.com)

**From:** [Dalton Barnum \(adpce.ad\)](mailto:Dalton.Barnum@adpce.ad)  
**To:** "Emily Cohen"  
**Subject:** RE: USDA Programmatic EA - NEPA Request for Comments  
**Date:** Monday, November 20, 2023 1:18:21 PM  
**Attachments:** [image004.jpg](#)  
[image005.jpg](#)  
[image001.jpg](#)

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Ms. Cohen,

My apologies for the misunderstanding. I appreciate you clearing that up for me. I'll have comments sent back your way as soon as I'm able.

Thanks!

**Dalton Barnum** | NStEP Coordinator  
**Department of Energy & Environment | Enterprise Services**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0648 | c: 501.287.8716 | e: [dalton.barnum@adeq.state.ar.us](mailto:dalton.barnum@adeq.state.ar.us)



---

**From:** Emily Cohen [mailto:Emily.Cohen@solvllc.com]  
**Sent:** Monday, November 20, 2023 12:15 PM  
**To:** Dalton Barnum (adpce.ad) <Dalton.Barnum@adeq.state.ar.us>  
**Subject:** RE: USDA Programmatic EA - NEPA Request for Comments

Hi,

The EA we are working on is for a programmatic EA so there are no site maps. The FSA is wanting input on the criteria used for environmental screening criteria that will serve as guidelines for projects that are subject to programmatic review. We appreciate your review of the criteria listed in the letter and any comments on issues that would be of concern to your office. Please suggest any screening criteria which would minimize program impacts to regulated environmental resources and reduce the need for downstream consultation efforts.

Please let me know if you have any questions.

Thanks so much,  
Emily



**Emily Cohen** 406 239 6932  
[emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
[www.solvllc.com](http://www.solvllc.com)

---

**From:** Dalton Barnum (adpce.ad) <[Dalton.Barnum@adeq.state.ar.us](mailto:Dalton.Barnum@adeq.state.ar.us)>  
**Sent:** Monday, November 20, 2023 10:57 AM  
**To:** 'Emily Cohen' <[Emily.Cohen@solvllc.com](mailto:Emily.Cohen@solvllc.com)>  
**Subject:** RE: USDA Programmatic EA - NEPA Request for Comments

Ms. Cohen,

Thank you for the clarification. I can get this sent out immediately and request an expedited review from our respective medias. Do you happen to have any site maps or any equivalent documentation regarding the site? I believe there's sufficient information in the letter to provide a review, but I'm not seeing any information about the location.

Please let me know if there's anything more you'll need from me.

Thank you,

**Dalton Barnum** | NStEP Coordinator  
**Department of Energy & Environment | Enterprise Services**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0648 | c: 501.287.8716 | e: [dalton.barnum@adeq.state.ar.us](mailto:dalton.barnum@adeq.state.ar.us)



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**From:** Emily Cohen [<mailto:Emily.Cohen@solvllc.com>]  
**Sent:** Monday, November 20, 2023 8:55 AM  
**To:** Dalton Barnum (adpce.ad) <[Dalton.Barnum@adeq.state.ar.us](mailto:Dalton.Barnum@adeq.state.ar.us)>  
**Cc:** Emily Cohen <[Emily.Cohen@solvllc.com](mailto:Emily.Cohen@solvllc.com)>  
**Subject:** RE: USDA Programmatic EA - NEPA Request for Comments

Good morning, Dalton,

Thank you for reaching out about the USDA Programmatic EA we are working on. I am sorry for any confusion about the dates. While the letter was dated 10-10-2023, it was not sent out until 11-2-2023 so the 30-day window for comment is open until 12-2-23. We would appreciate comments from AE&E and understand with the different holidays that it may be necessary to get them in a little late.

Please let me know if you have any questions.

Thanks so much,  
Emily



**Emily Cohen** 406 239 6932  
[emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)  
[www.solvllc.com](http://www.solvllc.com)

---

**From:** Dalton Barnum (adpce.ad) <[Dalton.Barnum@adeq.state.ar.us](mailto:Dalton.Barnum@adeq.state.ar.us)>

**Sent:** Monday, November 20, 2023 9:31 AM

**To:** 'emily.cohen@solvllc.com' <[emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)>

**Subject:** USDA Programmatic EA - NEPA Request for Comments

**Importance:** High

Good morning, Ms. Cohen,

I represent the Arkansas Department of Energy & Environment's (AE&E) Office of Enterprise Services, and I assist with facilitating NEPA requests to our various medias to collect comments for inquirers. I'm reaching out in regards to a letter I received recently about a programmatic environmental assessment (EA) for the USDA Farm Service Agency's Tree Assistance Program (see attached for reference).

I noticed that the letter was dated much earlier than when it actually came across my desk. I understand that it was desired that comments would be submitted within a 30-day time frame, so I wanted to reach out and see if you would still like AE&E to provide comments on the matter. I apologize for any inconvenience that this may cause, but any direction would be greatly appreciated. I'm happy to send the request out to our medias immediately if need be.

Please let me know if you have any questions for me.

Best,

**Dalton Barnum** | NStEP Coordinator  
**Department of Energy & Environment | Enterprise Services**  
5301 Northshore Drive | North Little Rock, AR 72118  
t: 501.682.0648 | c: 501.287.8716 | e: [dalton.barnum@adeq.state.ar.us](mailto:dalton.barnum@adeq.state.ar.us)

NEBRASKA

Good Life. Great Resources.

DEPT. OF ENVIRONMENT AND ENERGY



Jim Pillen, Governor

13 November 2023

Kirk A Morrow  
Nebraska Dept of Environment & Energy  
245 Fallbrook Blvd, Ste 100  
Lincoln, NE 68521

Zach Ducheneaux  
Administrator  
USDA Farm Service Agency  
C/O Emily Cohen, SOLV LLC (via E-Mail)

RE: USDA proposed PEA regarding future TAP grants – Request for Comments

Mr. Ducheneaux:

This is written in response to your letter, dated October 10, 2023, forwarded via our agency webpage link (NDEE Moreinfo). Thank you for the information regarding the Programmatic Environmental Assessment (PEA) of the Tree Assistance Program (TAP). In general, we concur with USDA efforts to streamline the application, compliance and funding processes related to TAP.

Regarding the five items listed in the screening criteria as presented in page 2 of your letter, I would only have one additional suggestion:

*“Projects that will not take place on land parcels where land disturbance, or excavation, is restricted due to previous environmental agreements or covenants.”*

Example of these types of properties include former landfills, CERCLA (Superfund) sites, Brownfield cleanups and RCRA post-closure facilities.

For your use and information, National Environmental Policy Act (NEPA) reviews submitted to the Nebraska Department of Environment and Energy may be directed to [Alicia Boss](#), Environmental Specialist, State Energy Program. Alicia develops and forwards the agency’s response to these requests.

Otherwise, I can be reached by phone ((402) 471-8584) or E-Mail ([kirk.morrow@nebraska.gov](mailto:kirk.morrow@nebraska.gov)) should you have any additional questions.

Sincerely,

Kirk A Morrow, P.G.  
Emergency Response Program  
Administration Division



---

**From:** [Ensey, Michelle, DCA](mailto:Ensey_Michelle_DCA)  
**To:** "[emily.cohen@solvllc.com](mailto:emily.cohen@solvllc.com)"  
**Subject:** USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment  
**Date:** Thursday, November 9, 2023 1:10:00 PM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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Good morning,

On behalf of the NM State Historic Preservation Officer I would like to request that the draft EA be emailed to [nm.shpo@dca.nm.gov](mailto:nm.shpo@dca.nm.gov) with a copy to me at [michelle.ensey@dca.nm.gov](mailto:michelle.ensey@dca.nm.gov).

Thank you and please do not hesitate to contact me if you have any questions.

Sincerely,

Michelle M. Ensey  
Deputy State Historic Preservation Officer & State Archaeologist  
NM Historic Preservation Division  
Interim Co-Director, Office of Archaeological Studies  
Office: (505) 827-4064  
Cell: (505) 490-3928  
[www.nmhistoricpreservation.org](http://www.nmhistoricpreservation.org)  
[www.nmarchaeology.org](http://www.nmarchaeology.org)

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**From:** [kevin.ebert@solvllc.com](mailto:kevin.ebert@solvllc.com) <[kevin.ebert@solvllc.com](mailto:kevin.ebert@solvllc.com)>  
**Sent:** Thursday, November 2, 2023 3:19 PM  
**To:** Pappas, Jeff, DCA <[Jeff.Pappas@dca.nm.gov](mailto:Jeff.Pappas@dca.nm.gov)>  
**Subject:** [EXTERNAL] USDA Farm Service Agency's Tree Assistance Program Programmatic Environmental Assessment

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Interested Reader,

I am a contracted environmental scientist assisting the U.S. Department of Agriculture (USDA) Farm Production and Conservation Business Center's (FPAC-BC) Environmental Activities Division (ENV) in developing a Programmatic Environmental Assessment for USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP). The attached letter describes details of the project and provides instructions for how to comment.

Thank you,  
Kevin Ebert



**Kevin Ebert**

703 760 4801 x188

[kevin.ebert@solvllc.com](mailto:kevin.ebert@solvllc.com)

[www.solvllc.com](http://www.solvllc.com)



Michael L. Parson  
Governor

Dru Buntin  
Director

November 6, 2023

Emily Cohen  
Solv, LLC  
[Emily.cohen@solvllc.com](mailto:Emily.cohen@solvllc.com)

RE: Programmatic Environmental Assessment (EA) for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program

Dear Emily Cohen;

The Missouri Department of Natural Resources appreciates the opportunity to provide input on the proposed Programmatic EA for the United States Department of Agriculture, Farm Service Agency's Tree Assistance Program. The department offers the following comments for consideration as the agency develops this EA.

**Special Consideration in Karst Geography:** Springs, sinkholes, and caves are features on the landscape associated with karst topography that can act as direct conduits of surface water and pollutants to groundwater. As such, extra precaution should be taken to minimize disturbance of land in or around these features, and to avoid the introduction of pollutants to sensitive groundwater resources. Karst areas may also present the possibility of potential collapse. If a full Geologic Assessment is required for a project in Missouri, the Missouri Geological Survey can be contacted directly at 800-361-4827. Other maps showing natural and cultural resources can be found at <https://dnr.mo.gov/land-geology/maps-data-research>.

**Best Management Practices:** Best management practices should be utilized during project activities to limit the amount of sediment and other pollutants entering waters of the state, and to protect the water's chemical, physical, and biological characteristics. These practices include, but are not limited to, conducting work during low flow conditions whenever possible, keeping heavy equipment out of the water, and taking all necessary precautions to avoid the release of fuel or other waste products to streams and other waters. In addition, the Department encourages the preservation of existing riparian or buffer areas around each water resource to limit the amount of sediments or other pollutants entering the water. Any stream banks, riparian corridors, lake shores, or wetlands denuded of vegetation should be stabilized and re-vegetated as soon as is practicable.

**Land Disturbance of One Acre or More:** Per the Clean Water Act Section 402, work disturbing an area of one acre or more requires issuance of a land disturbance permit prior to any earth work. Disturbance to valuable resource waters, including springs, sinkholes and losing streams, could require additional conditions or a site-specific permit. Information and application



Emily Cohen

Page 2

for online land disturbance permits in Missouri are located at <https://dnr.mo.gov/water/business-industry-other-entities/permits-certification-engineering-fees/stormwater/construction-land-disturbance>.

**Dust:** Ensure fugitive particulate matter emissions, such as dust, resulting from the project do not remain on surfaces or in the air beyond the property line of origin. 10 CSR 10-6.170 restricts the emission of particulate matter to the ambient air beyond the premises of origin. Additional information on general dust emissions may be found here <https://dnr.mo.gov/document-search/odor-dust-asbestos-open-burning-freon-emissions-pub2200/pub2200>.

**Open Burning:** The open burning of refuse and trade waste is restricted according to 10 CSR 10-6.045. Construction, demolition, and trade waste cannot be open burned, except for untreated wood. Brush from land clearing activities may be burned if the burning is conducted outside the city limits and greater than 200 yards from the nearest occupied structure. Additional information on open burning can be found at <https://dnr.mo.gov/document-search/facts-open-burning-under-missouri-regulations-pub2047/pub2047>.

We appreciate the opportunity to provide comment related to environmental regulation and the protection of air, land and water in Missouri. If you have any questions about this response, please contact me at 573-522-6221.

Sincerely,



Hannah Humphrey  
Deputy Director

HH/man



West Virginia Department of  
**ARTS, CULTURE  
AND HISTORY**

**The Culture Center**  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0300

**Randall Reid-Smith, Curator**  
Phone 304.558.0220 • www.wvculture.org  
Fax 304.558.2779 • TDD 304.558.3562  
EEO/AA Employer

December 6, 2023

Mr. Kevin Ebert  
Solv LLC  
Via email: kevin.ebert@solvllc.com

RE: USDA Farm Service Agency's Tree Assistance Program  
Programmatic Environmental Assessment  
FR#: 24-0096-Multi

Dear Mr. Ebert:

We have reviewed the information submitted in support of the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, the United States Department of Agriculture (USDA) Farm Production and Conservation Business Center's Environmental Activities Division is developing a Programmatic Environmental Assessment for the USDA Farm Service Agency's Tree Assistance Program (TAP). TAP funding will be provided to assist eligible tree, bush, and vine growers to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters, including but not limited to storms, wind, flooding, and infestation by invasive species or disease. Current activities covered by existing Categorical Exclusions (CATEXs) include bare land planting or planting without site preparation, pest management, thinning and pruning of plants, tree protection including plastic tubes, disturbance within the limits of current tillage, and seeding shrub plantings. In addition, land-clearing operations of no more than 15 acres, nutrient management, and tree plantings when the trees have roots balls of one gallon containers or smaller are currently considered supported by CATEXs but require environmental review prior to implementation.

To streamline the application process, the USDA is proposing a programmatic NEPA approach to TAP to identify a suite of common management activities that occur under TAP and develop a list of environmental screening criteria to improve project reviews. Two of the alternatives will consider rehabilitation work, including pruning, removing, and salvaging existing trees and woody vegetation, preparing the land, and replanting new wood vegetation in areas where mortality occurs. The third alternative is a "no action" alternative where the TAP projects are reviewed under existing conditions. To facilitate a more efficient environmental evaluations, the following criteria will serve as guidelines for projects that are subject to this programmatic review:

- Project activities that would not result in ground disturbance below the level of previous disturbance;

December 6, 2023  
Mr. Ebert  
FR# 24-0096-Multi  
Page 2

- Project activities would not occur in designated critical habitat of threatened and endangered species;
- Project activities would occur in areas outside of a 100-foot buffer surrounding bodies of water or wetlands;
- Project activities would not involve clearing of woody vegetation other than eligible trees, bushes, or vines;
- Land-clearing of eligible orchards, vineyards, and shrubs associated with the program would not exceed 1,000 acres (the maximum cumulative total acres eligible for TAP assistance per operation annually).

Archaeological Resources:

Our office houses records for thousands of archaeological sites across the state that are located within a wide variety of environmental settings and terrain. We appreciate that the list of environmental screening criteria currently limits TAP projects to those activities that would not result in ground disturbance below the level of previous disturbance. However, we request that consideration be given to the presence of known archaeological sites. Depending on the nature of the site, the sensitivity of its deposits, as well as other factors, site materials could be disturbed even when new ground disturbance is limited. Therefore, we request the list of environmental screening criteria be expanded to state that project activities would not occur within the boundaries of documented archaeological sites. We also ask for an inadvertent discovery plan to be developed that outlines procedures and notification protocols that would be followed should an archaeological site, unmarked burial, or other cultural resource be impacted unintentionally. Finally, we request to be updated about the USDA's plans to conduct tribal consultation with respect to the development of this PA.

Architectural Resources:

We have reviewed the submitted information, and because the proposed agreement will address vegetation issues with no direct effects to architectural resources, we are agreeable to the proposed guidelines being proposed to streamline TAP reviews and support the development of the agreement. We look forward to reviewing the draft agreement once completed, and we will provide additional comments upon receipt of the draft agreement.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Benjamin M. Riggle, Structural Historian, or Lora A. Lamarre-DeMott, Senior Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/LLD/BMR

CC: Emily Cohen, Solv, Inc., Email: emily.cohen@solvllc.com



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December 8, 2023

Emily Cohen  
Solv, LLC  
8201 Greensboro Drive, Suite 700  
McLean VA 22102

RE: Proposed Programmatic Environmental Assessment for the U.S. Department of Agriculture, Farm Service Agency's Tree Assistance Program

Dear Ms. Cohen:

Texas Parks and Wildlife Department (TPWD) has received the request for scoping comments for the proposed project referenced above.

As the state agency with primary responsibility for protecting the state's fish and wildlife resources, in accordance with the authority granted by Parks and Wildlife Code (PWC) §12.0011, and per coordination under the National Environmental Policy Act (NEPA), TPWD hereby provides the following recommendations and informational comments to assist in minimizing potential adverse impacts to the state's fish and wildlife resources, including rare, threatened, and endangered species.

### Project Description

The U.S. Department of Agriculture (USDA) Farm Production and Conservation Business Center's (FPAC-BC) Environmental Activities Division (ENV) is developing a Programmatic Environmental Assessment (PEA) for the USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP).

The TAP provides financial assistance to eligible tree, bush, and vine growers (orchards, nurseries, vineyards, etc.) to replant or rehabilitate eligible trees, bushes, and vines damaged by natural disasters. A number of rehabilitation actions relevant to the TAP are covered under listed Categorical Exclusions and, after review by the Council on Environmental Quality (CEQ), do not require further environmental review and will not be included in the PEA. These actions include bare land planting or planting without site preparation, pest management, thinning and pruning, tree protection including plastic tubes, disturbance within current tillage limits, and seedling shrub planting.

Activities that would require environmental review prior to implementation include land clearing operations of no more than 15 acres, nutrient management, and tree planting when trees have root balls of one gallon or smaller.

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To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.

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FSA is proposing a programmatic NEPA approach to TAP that would streamline the application, environmental compliance, and funding process. The goal of the PEA is to identify a suite of common management activities that occur under the TAP, develop a comprehensive list of environmental screening criteria to limit impacts, accomplish consultation and analyze potential environmental impacts of the program nationwide.

The PEA will include three alternatives: one “No Action” alternative and two alternatives that consider rehabilitation work, including pruning, removing and salvaging existing trees and woody vegetation, preparing the land and replanting new woody vegetation.

FSA has established environmental screening criteria to minimize potential impacts of the Proposed Action. These criteria include project activities:

- that would not result in ground disturbance below the level of previous disturbance,
- would not occur in critical habitat,
- would occur outside of a 100-foot buffer around water bodies or wetlands,
- would not involve clearing woody vegetation other than eligible trees, bushes or vines, and,
- that would not result in land clearing that exceeds 1,000 acres of eligible orchards, vineyards, and shrubs associated with the program.

TPWD reviewed the information provided and offers the following comments and recommendations.

### **Federal Regulations**

#### *Migratory Bird Treaty Act*

The Migratory Bird Treaty Act (MBTA) prohibits taking, attempting to take, capturing, killing, selling, purchasing, possessing, transporting, and importing of migratory birds, their eggs, parts, or nests, except when specifically authorized by the Department of the Interior. This protection applies to most native bird species, including ground nesting species. The U.S. Fish and Wildlife Service (USFWS) Migratory Bird Office can be contacted at (505) 248-7882 for more information on potential impacts to migratory birds.

Within the project’s statewide area, potential impacts to migratory birds could occur during land clearing activities. Vegetation addressed by the PEA, including dead or dying trees with snags or hollow cavities suitable for nesting, could provide cover and suitable feeding, loafing, and nesting habitat for birds.



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**Recommendation:** TPWD recommends scheduling any clearing of trees, bushes and vines to occur outside of the March 15 - September 15 migratory bird nesting season in order to comply with the MBTA.

If vegetation clearing must be scheduled to occur during the nesting season, TPWD recommends the vegetation to be impacted should be surveyed for active nests by a qualified biologist. Nest surveys should be conducted no more than five days prior to the scheduled clearing to ensure recently constructed nests are identified. If active nests are observed during surveys, TPWD recommends a 100-foot radius buffer of vegetation remain around nests until eggs have hatched and the young have fledged; however, the size of the buffer zone is dependent on various factors and can be coordinated with the local or regional USFWS office.

### **State Regulations**

#### *Parks and Wildlife Code, Chapter 64-Birds*

State law prohibits any take or possession of nongame birds, including their eggs and nests. Laws and regulations pertaining to state-protection of nongame birds are contained in chapter 64 of the Texas PWC; specifically, section 64.002 provides that no person may catch, kill, injure, pursue, or possess a bird that is not a game bird. PWC section 64.003, regarding destroying nests or eggs, provides that, no person may destroy or take the nests, eggs, or young and any wild game bird, wild bird, or wild fowl. PWC chapter 64 does not allow for incidental take.

**Recommendation:** Please review the *Federal Regulations: Migratory Bird Treaty Act* section above for recommendations as they are applicable for chapter 64 of the PWC compliance.

#### *Parks and Wildlife Code, Section 68.015 – State listed Species*

PWC regulates state listed threatened and endangered animal species. The capture, trap, take, or killing of state-listed threatened and endangered animal species is unlawful unless expressly authorized under a permit issued by the USFWS or TPWD. A copy of *TPWD Guidelines for Protection of State-Listed Species*, which includes a list of penalties for take of species, can be found on the TPWD Wildlife Habitat Assessment Program website. For purposes of relocation, surveys, monitoring, and research, state listed species may only be handled by persons with the appropriate authorization obtained through the TPWD Wildlife Permits Program. For more information on this authorization, please contact the Wildlife Permits Office at (512) 389-4647.

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The potential occurrence of state listed species in any project area is primarily dependent upon the availability of suitable habitat. Direct impacts to high quality or suitable habitat therefore are directly proportional to the magnitude and potential to directly impact state listed species. State listed reptiles that are typically slow moving or unable to move due to cool temperatures are especially susceptible to being directly impacted during project site clearing.

**Recommendation:** TPWD recommends reviewing the most current TPWD annotated county lists of rare species for the county in which the federal action would occur, as state listed species could be present depending upon habitat availability. These lists are available online at the TPWD Wildlife Diversity website.

### **Species of Greatest Conservation Need**

In addition to state and federally protected species, TPWD tracks Species of Greatest Conservation Need (SGCN) and other special landscape features and natural communities that are not listed and threatened or endangered. These species and communities are tracked in the Texas Natural Diversity Database (TXNDD) and TPWD actively promotes their conservation. TPWD considers it important to evaluate and minimize impacts to such resources to reduce the likelihood of endangerment and preclude the need to list as threatened or endangered in the future.

Please note that the absence of TXNDD information in an area does not imply that a species is absent from that area. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and **cannot be used as presence/absence data**. This information cannot be substituted for on-the-ground surveys.

**Recommendation:** Please review the current TPWD county list for any proposed project areas as rare and protected species could be present, depending on habitat availability. If during construction, the project area is found to contain SGCN or protected species, natural plant communities, or special features, TPWD recommends that precautions be taken to avoid impacts to them.

### **General Construction Recommendation**

To assist in general project planning, TPWD provides the following Beneficial Management Practices (BMP) and general construction recommendations:

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**Recommendation:** TPWD recommends using existing facilities whenever possible for laydown areas and other temporary workspace. By utilizing previously disturbed areas including existing utility corridors, county or private roads, or other previously impacted sites, adverse impacts to fish and wildlife resources would be mitigated by avoiding and/or minimizing impacts to undisturbed habitats.

**Recommendation:** TPWD recommends the judicious use and placement of sediment control fence to exclude wildlife from discrete construction/project areas, when applicable. In many cases, sediment control fence placement for the purposes of controlling erosion and protecting water quality can be modified minimally to also provide the benefit of excluding wildlife access to construction areas. The exclusion fence should be buried at least six inches and be at least 24 inches high. The exclusion fence should be maintained for the life of the project and only be removed after the project activities are completed and the disturbed sites have been revegetated or otherwise stabilized. Construction personnel should be encouraged to examine the inside of the exclusion area daily to determine if any wildlife species have been trapped inside the area of impact and provide safe egress opportunities prior to initiation of construction activities.

**Recommendation:** If trenching or other excavation is proposed in any TAP associated activities, TPWD recommends contractors keep trenching, excavation, and backfilling crews close together to minimize the number of trenches or excavation areas left open at any given time during construction. Any holes left open for more than two daylight hours should be inspected for the presence of trapped wildlife prior to backfilling. TPWD recommends any open trenches or excavation areas be covered overnight and inspected every morning to ensure no wildlife species have been trapped. If trenches and excavation areas cannot be backfilled the day of initial excavation or covered overnight, then escape ramps should be installed, if feasible, at least every 300 feet. Escape ramps consist of short lateral trenches or wooden planks sloping to the surface at an angle less than 45 degrees (1:1) to allow wildlife to crawl out on their own.

**Recommendation:** For soil stabilization and/or revegetation of disturbed areas within proposed project areas, TPWD recommends erosion and seed/mulch stabilization materials that avoid entanglement hazards to snakes and other wildlife species. Because the mesh found in many erosion control blankets or mats pose an entanglement hazard to wildlife, TPWD recommends the use of no-till drilling, hydromulching and/or hydroseeding due to a reduced risk to wildlife. If erosion control blankets or mats would be used, the product should contain no netting or contain loosely woven, natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the

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mesh openings. Plastic mesh matting and hydromulch containing microplastics should be avoided.

**Recommendation:** Wildlife observed during replanting or rehabilitation activities should be allowed to safely leave the site or be translocated to a nearby area with similar habitat that would not be disturbed by project activities. TPWD recommends that any translocations of reptiles be the minimum distance possible, no greater than one mile, and preferably with 100-200 yards from the initial encounter location. For purposes of relocation, surveys, monitoring, and research, state listed species may only be handled by persons with the appropriate authorization obtained through the TPWD Wildlife Permits Program. For more information on this authorization, please contact the Wildlife Permits Office at (512) 389-4647.

Thank you for considering the fish and wildlife resources of Texas. Please contact me at (361) 431-6003 ext. 829 or [russell.hooten@tpwd.texas.gov](mailto:russell.hooten@tpwd.texas.gov) if we may be of further assistance.

Sincerely,

*Russell Hooten*

Russell Hooten  
Ecological and Environmental Planning Program  
Wildlife Division

/rh 51662



**DIVISION OF  
ENVIRONMENTAL QUALITY**

Sarah Huckabee Sanders  
GOVERNOR

Shane E. Khoury  
SECRETARY

January 4, 2024

Emily Cohen  
United States Department of Agriculture  
Solv, LLC  
8201 Greensboro Drive, Suite 700  
McLean, VA 22102

RE: National Environmental Policy Act (NEPA) Comments Requested Regarding USDA Farm Service Agency's Tree Assistance Program – Programmatic Environmental Assessment

Dear Ms. Cohen,

The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), appreciates the opportunity to comment on the USDA Farm Service Agency's (FSA) Tree Assistance Program (TAP) development of a programmatic environmental assessment (PEA). The PEA will be prepared in accordance with the requirements set forth in the National Environmental Policy Act (NEPA) and 7 Code of Federal Regulations (CFR) Part 799.

The FSA has begun the establishment of environmental screening criteria to minimize the potential impacts to environmental, social, and economic sectors, and are listed as follows:

- Project activities that would not result in ground disturbance below the level of previous disturbance.
- Project activities would not occur in designated critical habitat of threatened and endangered species.
- Project activities would occur in areas outside of a 100-foot buffer surrounding bodies of water or wetlands.
- Project activities would not involve the clearing of woody vegetation other than eligible trees, bushes, or vines.
- Land-clearing of eligible orchards, vineyards, and shrubs associated with the program would not exceed 1,000 acres.

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT**

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DEQ has determined that proper management of any trimmed or removed vegetation should follow any local, State, or Federal regulations or guidelines. If you have any questions regarding these criteria, please contact DEQ's Office of Land Resources (OLR) Assessment and Remediation section, at 501.682.0844.

Additionally, if any solid waste will be generated from the project, it should be properly classified as hazardous waste or non-hazardous waste and must be disposed of at a facility that is permitted to receive such waste. For more information, please contact OLR's Compliance Section, at 501.682.0838.

This letter is issued in reliance upon the statements and representations made in the submittal. DEQ has no responsibility for the adequacy or proper functioning of the proposed project. Please contact the respective Offices with any questions.

Sincerely,

A handwritten signature in black ink that reads "Lucy Cross". The signature is written in a cursive style with a large initial "L" and "C".

Lucy Cross  
Director of Enterprise Services, Division of Environmental Quality  
5301 Northshore Drive, North Little Rock, AR 72118

LC: tdb