

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Crop Disaster Program
5-DAP (Revision 2)**

Amendment 10

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 3 H has been amended to clarify procedure for recording eligibility determinations.

Subparagraph 10 B has been amended to provide examples to emphasize how grower contract language can cause producers to be ineligible for CDP.

Subparagraph 10 C has been amended so the reference to FSA-325 is consistent with 1-CM, paragraph 799.

| Page Control Chart | | |
|---------------------------|---|----------------|
| TC | Text | Exhibit |
| | 1-5, 1-6 1-25 through 1-28 2-5, 2-6 | |

3 General Information (Continued)

G Prompt Payment Interest (Continued)

- The County Office has received all software to calculate and issue payments, including any necessary RMA downloads and crop table records.
- All referrals to RMA or OIG have been returned or cases completed.
- Participant appeals have been finalized for applications disapproved by COC.

H Other Criteria

The following are other program and administrative provisions that are applicable to CDP:

- controlled substance provisions
- fraud/FCIC

Exception: Participants either qualify for loss payments under CDP or they do not. Participants do not render performance. Accordingly, failure to fully comply relief provisions do **not** apply to CDP.

- equitable relief provisions.

County Offices shall record determinations for the applicable criteria in the * * * eligibility file according to 3-PL.

I Modifying Provisions

Provisions in this handbook shall **not** be revised without prior written approval from the National Office.

3 General Information (Continued)

J Forms

Forms, worksheets, applications and other documents other than those provided in this *--handbook or issued by the National Office shall not be required for implementing--* 2005-2007 CDP.

Any document that collects data from a producer, regardless of whether the producer's signature is required, is subject to the Privacy Act and Information Collection Procedures, *--and requires clearance by the following offices:--*

- National Office program area
- MSD, Forms, Graphics, and Records Section
- OMB.

* * *

K Signature Requirements

All participants' signatures **must** be received by the signup deadline. Neither STC nor COC has authority to approve late-filed applications.

Follow 1-CM for signature requirements.

Note: General partnerships **must** have a permanent tax ID number to receive any FSA payment. FSA payments shall **not** be issued to the individual members of a general partnership when the general partnership does **not** have a permanent tax ID number.

FSA payments may be issued to:

- a joint venture with a permanent tax ID number
- the individual members of a joint venture, using the individual member's ID numbers, when the joint venture does **not** have a permanent tax ID number.

L Public Information

Follow instructions in 2-INFO for providing information about 2005-2007 CDP.

10 Eligible Producers (Continued)

B Verifying Producer Eligibility

COC shall take whatever action is necessary to ensure that payments are proper and are for producers suffering the claimed loss of the crop. The producer must be able to show, with verifiable evidence, that the producer had a valid ownership share interest in the commodity produced and control of the crop acreage on which the commodity was grown at the time of the disaster, which is the basis for the application for payment. One of the following shall be obtained as determined by COC:

- copies of signed written leases
- copies of signed rental agreements
- copies of other legal documents showing land ownership or control
- statement signed by landowner that producer had control of the acreage
- statement signed by operator or producer that producer had control of the acreage on a farm.

Note: FSA-578, producer print, or RMA documentation which includes the RMA download or crop insurance physical documents (loss adjustment settlement sheets, certified appraisal by LA) will suffice. Neither CCC-509 nor CCC-502 is acceptable as verifiable evidence.

Exception: For Federal- and State-owned leased forage only copies of signed written leases, rental agreements, or other legal documents may be considered.

Leases, rental agreements, and any other written statements documenting verbal agreements shall be reviewed on a case-by-case basis. The review must determine the amount of interest and risk in the production for the lessor and lessee. Apply the specific case circumstances to the determination of eligible producer.

*--A producer may obtain a grower contract for marketing purposes. The grower contract may include language that precludes a producer from maintaining an ownership share risk, thus making the producer ineligible for CDP. Some examples include, but are **not** limited to:

- language stating that the:
 - grower has no right, title, or interest in the seed or the crop grown
 - producer's interest in the seed and crop is that of a bailee
- crop insurance arrangements whereby the producer does **not** pay the premium, and/or indemnities are passed on to the company or a pooling agreement.--*

10 Eligible Producers (Continued)**B Verifying Producer Eligibility (Continued)**

When reviewing case circumstances, evaluate what lease or rental arrangement existed between parties before the natural disaster. The lease or rental arrangement existing before the date of disaster shall be used to determine eligible producer. Any negotiation, agreement, or performance of parties to a rental or lease arrangement after date of disaster shall have no bearing on the question of eligible producer.

Applicants certifying to having a valid claim to a share of CDP payment are subject to spot check. If agreements or contracts are discovered that show a grower did not have a valid claim to a share of a crop for which CDP assistance was claimed, the CDP payment must be refunded.

Payment shall be denied if COC is not satisfied that payments claimed by producers are proper.

Note: The eligible producer requirements shall not be deemed to have been met merely because a participant had obtained either NAP or insurance coverage. The CDP participant must have had a valid ownership share interest in the commodity as specified in this paragraph and 7 CFR 760.807.

C Deceased Producers and Dissolved Entities

Authority to sign contracts, applications, and other documents on behalf of deceased producers may vary according to State law. If an eligible producer is now deceased or a dissolved entity, then an authorized representative of the deceased producer or dissolved entity may sign the applicable disaster program form, provided that the authorized representative has authority to enter into a contract for the deceased producer or dissolved entity.

Important: Proof of authority to sign for the eligible deceased producer or dissolved entity must be on file in the County Office before the representative is allowed to sign an application requesting disaster benefits for the producer. Proof of authority includes any of the following:

- court order
- letter from Secretary of State
- document approved by OGC Regional Attorney.

10 Eligible Producers (Continued)**C Deceased Producers and Dissolved Entities (Continued)**

*--Use FSA-325 **only** when it is requested that a payment earned by a deceased, missing, or incompetent program participant be issued in a name other than that of the deceased, disappeared, or declared incompetent program participant.

Payments shall be issued to the respective qualified claimant's names using the deceased, missing, or incompetent program participant's tax identification number.--*

State Office shall consult with the OGC Regional Attorney on the following types of cases:

- documentation submitted does not clearly establish authority to enter into a contract or application on behalf of the deceased individual, closed estate, or dissolved entity
- application from and request for issuing payments to heirs of a deceased individual without documentation provided that establishes authority to enter into a contract or application on behalf of the deceased individual.

If a CDP application involving a deceased individual or closed estate is determined to have been signed by an authorized individual:

- payment shall be issued using the ID number of the eligible individual or the individual's estate, as applicable
- payment may be issued in the names of the heirs, based on OGC's determination, according to 1-CM.

If a producer is general partnership or joint venture that was dissolved, **all** members of the general partnership or joint venture at the time of dissolution, or their representatives, must sign a separate FSA-840 and associated forms.

Note: Only one FSA-840 will be submitted for the partnership or joint venture; however, all members must sign FSA-840.

10 Eligible Producers (Continued)

D Change in Ownership

A producer who lost control or ownership of the land with a disaster-affected crop during the growing season is eligible to participate, if the applicant meets **all** of the following:

- was the producer at the time of planting
- had control of the crop at the time of the disaster event as determined by COC
- lost control of the property after the disaster event, but before harvest
- is able to provide production evidence (COC may assign maximum loss levels, if applicable).

In the case of a prolonged disaster event, such as drought, the producer planting the crop and experiencing a significant portion of the drought condition, as determined by COC, may be eligible. Any sale of the property and crop during the drought disaster event should be reflected in the sales price paid by the new owner. Disaster assistance shall not be prorated between former and successive owners of the crop.

35 Assignment of Payment

A Assigning Disaster Payments

Payments issued under CDP may be assigned according to instructions in 63-FI.

Producers must:

- complete either CCC-36 or CCC-37
- submit the request to the administrative County Office on or after May 25, 2007.

36 Payments to Deceased Individuals, Closed Estates, and Dissolved Entities

A Issuing Payments According to Deceased Individuals, Closed Estates, and Dissolved Entities

CDP payments for applications involving deceased individuals, closed estates, or dissolved entities shall be made according to the following, provided **all** other eligibility requirements are met.

| IF the *--participant is....* | AND the application is signed by an authorized representative of the... | THEN payments shall be issued... |
|--|--|--|
| an individual who died before an application was filed | deceased according to subparagraph 3 K | to any of the following, as applicable, using the ID number of the applicant: <ul style="list-style-type: none"> • the deceased individual • the individual's estate • name of the heirs, based on OGC determination, according to 1-CM, Part 26. |
| an estate that closed before an application was filed | estate according to subparagraph 3 K | |
| an entity that dissolved before an application was filed | dissolved entity according to subparagraph 3 K | using the ID number of the applicant. |
| an individual who dies, is declared incompetent, or is missing after filing an application | | to eligible payees executing FSA-325 according to 1-CM, paragraph 779. |

Notes: FSA-325 is only used when a program application was filed by an individual who:

- subsequently died
- is declared incompetent
- is missing before payments are issued.

Heirs **cannot** succeed to a loss or file their own application.

37 Multiple Benefit Deductions

A Benefit Deductions

As indicated in paragraph 3, an eligible participant may not receive, for the same loss, both CDP benefits and benefits administered using Section 32 funds under HIP and HDP authorized under the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

HIP and HDP provided assistance for 2005 or 2006 crop year losses because of hurricanes. As a result, payments made for 2005 or 2006 CDP must be reduced by the amount received under HIP or HDP.

HIP was offered in the following 6 States for the 2005 and 2006 crop years:

- Alabama
- Florida
- Louisiana
- Mississippi
- North Carolina
- Texas.

HDP was offered in the following 9 States for the 2005 and 2006 crop years:

- Alabama
- Arkansas
- Florida
- Louisiana
- Mississippi
- North Carolina
- South Carolina
- Tennessee
- Texas.