FSA
HANDBOOK

Finality Rule and Equitable Relief

To access the transmittal page click on the short reference.

For State and County Offices

SHORT REFERENCE

7-CP
(Revision 3)

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

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Finality Rule and Equitable Relief 7-CP (Revision 3)	Amendment 5

Approved by: Deputy Administrator, Farm Programs

Amendment Transmittal

A Reasons for Amendment

Exhibit 10 has been amended to clarify that negative reports are **not** required.

Page Control Chart		
TC	**Text**	**Exhibit**
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Part 1 General Information

1 Overview

A Handbook Purpose

This handbook provides instructions and procedure for administering and documenting cases that may be subject to the following:

- failure to fully comply
- finality rule
- misaction/misinformation
- programmatic relief.

B Related Handbooks

This handbook provides guidance about the finality rule and equitable relief activities necessary to administer programs covered by the following handbooks:

- 1-APP
- 7-CN
- 2-CP
- 4-CP
- 6-CP
- 2-CRP
- 1-DCP
- 8-DF
- 1-ECP
- 1-EFRP
- 58-FI
- 3-LD
- 1-LDAP
- 8-LP
- 1-NAP
- 1-PL
- 4-PL
- 1-SURE
- 1-TAP.

Notes: Some parts of this handbook have applicability for other program-related matters. Handle situations according to applicable program handbooks and instructions in this handbook.

See 58-FI for rules about disregarding debts.

2 Sources of Authority and Related References

A Statutory Authority

The following provides the statutory authority for finality rule and equitable relief provisions.

Provision	Statutory Authority
Equitable Relief	The Farm Security and Rural Investment Act of 2002, Section 1613
Finality Rule	Department of Agriculture Reorganization Act of 1994, Section 281
Programmatic Relief	Individual program regulations of the particular program under various laws, program regulations, and FSA handbooks.

B Federal Regulations

The regulations governing the administration of both the finality rule and equitable relief are located in 7 CFR Part 718, Subpart D.

Programmatic relief is governed by the applicable regulations for a specific program.

3 Equitable Relief and Finality Rule

A Overview

The following is an abbreviated comparison of equitable relief and finality provisions available to FSA.

Finality Rule Provision or Type of Relief	Summary of Provisions
Equitable Relief Under Failure to Fully Comply Provisions	Applies to participants who are enrolled and who are subject to compliance provisions or performance requirements. Enrolled participant or applicant must demonstrate a good faith effort to comply, but for some good reason, the participant failed to fully comply or perform as required. This provision does **not** apply to individuals or entities who simply do not apply or sign up on time and who are not subject to compliance or performance requirements (see programmatic relief). See 7 CFR 718.304 and paragraph 45.
Equitable Relief Under Misaction/Misinformation Provisions	In a case where an authorized FSA representative provided incorrect information or advice or acted incorrectly, and where the participant detrimentally relied on that erroneous advice or action, and where the participant had **no reason** to suspect or know that the information, advice, or action of the authorized FSA representative was in error, relief may be extended to allow the participant to be considered eligible up to the extent FSA deems it appropriate and equitable. See 7 CFR 718.303 and paragraph 44.

3 Equitable Relief and Finality Rule (Continued)

A Overview (Continued)

Finality Rule Provision or Type of Relief	Summary of Provisions
Finality Rule	Finality is **not** equitable relief. No equity test is applied. Under the finality rule, a participant may be allowed to keep payments that were disbursed in error, through no fault of the participant. Participant cannot have had any **reason** to know or suspect the decision to approve or pay an application was in error. Applies **only** to decisions of STC's and COC's (and STC and COC employees). Does **not** apply to decisions of National Office employees, decisions of RMA or reinsured companies, or decisions of SED's. Exceptions to finality rule. See 7 CFR 718.306 and paragraph 16.
Programmatic Relief	At FSA's discretion, applies where individual program regulations authorize FSA to waive or modify nonstatutory deadlines or other program requirements as specifically mentioned in individual program regulations or other provisions, in either single cases or group instances, where DAFP determines it appropriate. Programmatic relief cannot be used to modify law, including contract law. See paragraph 43.

3 Equitable Relief and Finality Rule (Continued)

A Overview (Continued)

Finality Rule Provision or Type of Relief	Summary of Provisions
SED Equitable Relief	Subject to specific conditions and OGC written concurrence, SED's may grant relief under the misaction/misinformation or failure to fully comply provisions, if the: • program matter with respect to which the relief is sought is in a covered program that is operated within the State under the control of SED • total amount of relief that will be provided to the individual or entity that applies for the relief by that SED under this special authority for errors during that year is less than $20,000 (including in that calculation, any loan amount or other benefit of any kind payable for that year and any other year) • total amount of such relief that has been previously provided to the participant using this special authority for errors in that year, as calculated in this table, is not more than $5,000 • total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by SED (or SED's predecessor) for errors for any year under this authority, as calculated in this table, is not more than $1 million. See 7 CFR 718.307 and paragraph 48.
Other Forms of Relief - RMPR	Applies to RMPR for ELAP, LFP, SURE, and TAP. See 7 CFR 760.106 and individual program handbook for the specific program.

3 Equitable Relief and Finality Rule (Continued)

B Steps in Determining Whether Relief or Finality May Apply

The following can be used to assist COC's, STC's, and SED's in determining:

- if finality or relief can be considered
- the appropriate relief authority.

Making Finality Rule and Equitable Relief Decisions	
Step	**Action**
1	Determine whether there is an overpayment, adverse decision, or adverse program eligibility decision resulting from an error by an FSA representative or inadvertent error of the participant. If the error giving rise to the adverse decision was: • made by FSA, go to step 2 • not made by FSA, go to step 5.

2	Determine if 90 calendar days or more have passed since filing of the complete application by the participant, including any supporting documents required for the participant's application.
	
	If 90 calendar days or more have:
	
	• not passed, the finality rule does not apply; go to step 4
	
	• passed, determine whether the finality rule may apply according to Part 2. If the finality rule:
	
	  • may apply, process and document the case according to Parts 2 and 4 and obtain determination from SED or DAFP, according to step 3
	
	  • does not apply, go to step 4.

3 Equitable Relief and Finality Rule (Continued)

B Steps in Determining Whether Relief or Finality May Apply (Continued)

Making Finality Rule and Equitable Relief Decisions	
Step	**Action**
3	If the finality rule may apply according to Part 2, the case shall be forwarded for determination to: • SED, if the amount of overpayment at issue under finality does not exceed $25,000 • DAFP, through SED, if the amount of overpayment at issue under finality is greater than $25,000. **Note:** If there are like cases and circumstances and some are within STC's or SED's authority and some are not, STC or SED will refrain from acting on the like cases within STC's or SED's authority until receiving a response on cases from DAFP. Go to step 7.

4	Determine whether there was incorrect program information, advice, or action of an authorized FSA representative on which the participant relied to the participant's detriment. Determine whether the participant had any reason to know or suspect that the erroneous program information, advice, or action of an authorized FSA representative was in error. If it is determined that an FSA representative:
	
	• did **not** err, the participant did not detrimentally rely on the error, or the participant had reason to know the erroneous action or advice was in error, equitable relief under the misinformation/action provisions does **not** apply; go to step 5
	
	• erred in action or in providing information or advice on which the participant relied to the participant's detriment, and the participant had no reason to know, suspect, or question the erroneous program information, advice, or action, determine whether equitable relief under misaction/misinformation may apply according to Part 3, and if misaction/misinformation provisions:
	
	  • may apply, process and document the case according to Parts 3 and 4 and obtain determination from STC, SED, or DAFP according to step 6
	
	  • do not apply, go to step 5.

3 Equitable Relief and Finality Rule (Continued)

B Steps in Determining Whether Relief or Finality May Apply (Continued)

Making Finality Rule and Equitable Relief Decisions	
Step	**Action**
5	Determine whether the participant has made an application and is enrolled or subject to program requirements, as a condition of participation and the participant: • failed to fully comply with the terms and conditions of a covered program • demonstrated a good faith effort to comply with the terms and conditions of the program • rendered performance under the covered program. If all of the above mentioned 3 bullets: • do **not** apply or the reviewing authority determines that the case circumstances do not warrant equitable relief consideration, relief cannot be contemplated or considered **Note:** Notify the participant of amounts due according to applicable procedures. • apply, determine whether to open the case to equitable relief consideration according to Part 3. **Note:** If equitable relief, provisions under failure to fully comply: • may apply according to Part 3, process and document the case according to Parts 3 and 4 and obtain determination from STC, SED, or DAFP, according to step 6 • do **not** apply according to Part 3, notify the participant of amounts due according to applicable procedures.

3 Equitable Relief and Finality Rule (Continued)

B Steps in Determining Whether Relief or Finality May Apply (Continued)

Making Finality Rule and Equitable Relief Decisions	
Step	**Action**

6	If misaction/misinformation, failure to fully comply provisions, or programmatic relief may apply according to Part 3, the case shall be forwarded for determination to the State Office. If the amount of relief sought for the participant:
	
	• does not exceed $5,000 for each case and is **not** programmatic relief, the case is within the relief authority of STC
	
	• does not exceed a total of $20,000 for the participant and is **not** programmatic relief, the case is within the special relief approval authority of SED, subject to OGC concurrence, as long as all of the following apply:
	
	  • the type of case is within the special relief authority of SED as provided in Part 3
	
	  • the total amount of such relief, that has been previously provided to the participant using this special authority for errors in that year, is not more than $5,000
	
	  • the total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by SED or SED's predecessor, using this special authority is not more than $1 million
	
	• exceeds the authority of STC or SED *** * ***, the case may be submitted to DAFP, if relief is recommended by STC.

7	Process case according to STC, SED, or DAFP determination, as applicable.

3 Equitable Relief and Finality Rule (Continued)

C Relief Authority Overview

The following provides a summary of finality rule and equitable relief authority.

Summary of Finality Rule and Equitable Relief Authority - Not Programmatic Relief		
Finality Rule	SED	Up to $25,000 per case.
	DAFP	Cases exceeding SED authority.
Misaction/Misinformation and Failure to Fully Comply	STC	Up to $5,000 per case.
	SED	Less than $20,000 per participant per calendar year. **1/**
	DAFP	Cases exceeding STC or SED authority. **2/**

Note: Relief for a participant cannot be combined among the various granting authorities. Relief may be granted by STC, SED, or DAFP.

Example 1: A participant is requesting $24,000 in equitable relief resulting from misaction by FSA. SED cannot grant relief of $19,000 in addition to STC relief of $5,000, bringing the total to the requested $24,000.

Example 2: A participant is requesting $30,000 in equitable relief in a failure to fully comply case. If SED grants $19,999 in relief to this participant, additional relief shall not be granted by DAFP.

1/ Providing any previous relief granted by SED in the same calendar year to that participant did not exceed $5,000 and relief provided to similarly situated participants is *****--not greater than $1 million. SED authority granted according to paragraph 48.--*****

2/ If STC or SED has authority to grant relief on a case that is similar to another case that requires a decision by a higher authority, no action shall be taken on the case until a determination on the other case has been made by the higher authority.

Note: Unless specifically delegated by DAFP, only DAFP has authority to grant programmatic relief. See paragraph 43.

4-15 (Reserved)

Part 2 Finality Rule

16 Finality Rule General Information

A Overview

In contrast to various forms of equitable relief, finality is not relief. Finality results from COC and STC decisions, not decisions of RMA or National Office officials, in response to applications filed by participants. Finality may occur when, because of some error, an incorrect or improper payment was inadvertently issued to a participant. Provided criteria in paragraph 17 apply, the recipient of the unintended or erroneous payment may be able to retain or keep the amount disbursed in error, provided the payment recipient was not in any way responsible for the erroneous payment issuance or computation.

B Regulatory Language

[7 CFR 718.306] (a) A determination by a State or county FSA committee made on or after October 13, 1994, becomes final and binding 90 days from the date the application for benefits has been filed, and supporting documentation required to be supplied by the producer as a condition for eligibility for the particular program has been filed, unless one of the following conditions exist:

(1) The participant has requested an administrative review of the determination in accordance with part 780 of this chapter;

(2) The determination was based on misrepresentation, false statement, fraud, or willful misconduct by or on behalf of the participant;

(3) The determination was modified by the Administrator, FSA, or in the case of CCC programs conducted under Chapter XIV of this title, the Executive Vice President, CCC; or

(4) The participant had reason to know that the determination was erroneous.

(b) Should an erroneous determination become final under the provisions of this section, it shall only be effective through the year in which the error was found and communicated to the participant.

Errors will and can occur. Sometimes, innocent mistakes result in overpayments. The issues to consider in determining whether a participant can retain unearned program payments under the finality rule are factors associated with the participant, not FSA. If the FSA decision or payment was in any way the result of erroneous information provided by the participant, even innocently provided erroneous information, the participant is likely not entitled to retain unearned payments.

16 Finality Rule General Information (Continued)

B Regulatory Language (Continued)

A key test for application of the finality rule to a COC or STC (or COC or STC representative) decision is whether the participant (not FSA) had any reason to know that the FSA decision was in error.

See Exhibit 2 for the definition of "reason to know".

Note: Paragraphs 20 through 22 contain some instructions and examples of finality applicability or inapplicability. These situations and examples are illustrative only and are neither exhaustive nor determinative. Except as provided in paragraph 18, for any COC or STC (or COC or STC representative) decision, offices will follow paragraphs 16 and 17.

C Date of Implementation

State and County Offices shall implement provisions of the finality rule for erroneous COC and STC decisions discovered on or after October 13, 1994.

D Relation to Other Requirements

The finality rule:

- is used in concurrence with other established procedure for correcting errors
- does not supersede other requirements.

Example 1: Producer rendered performance in good faith and relying on action or advice of an authorized COC representative. The finality rule does not supersede misaction/misinformation provisions.

Example 2: DCP participant was overpaid because of County Office error, but is also found to be in violation of WC provisions. Finality rule procedure does not supersede WC provisions.

16 Finality Rule General Information (Continued)

E No Equity Test

Application of the finality rule may appear to have similar effect as relief; however, finality is not equitable relief. The finality rule either applies to a case or it does not apply.

F Approval Authority

SED has final authority to:

- disapprove all cases

  Note: The producer shall be given appeal rights according to 1-APP, if SED does not approve FSA-321.

- approve cases for which the actual or projected dollar amounts considered to be in error do not exceed $25,000.

Cases exceeding SED authority shall be submitted to DAFP when approval is recommended by SED.

Note: If SED has authority to grant relief on a particular case that is similar to another case that is also currently being contemplated or considered but requires a decision by DAFP (cases exceeding $25,000), SED shall take no action on the case under their authority until DAFP makes a determination.

17 When Finality Rule Applies

A COC and STC Determinations

The finality rule applies only to determinations for covered programs made by COC's, STC's, or their representatives. This includes, but is not limited to, the following:

- decisions related to program payments containing overpayments or incorrect amounts
- documented decisions by COC, STC, or their employees
- calculation errors that are subsequently approved.

Note: See paragraph 18 for guidance in determining when the finality rule does not apply or where there is an exception to its application.

B Application for Benefits

The finality rule applies only to payments and overpayments resulting from a COC or STC (or COC or STC representative) decision that is related to an application for benefits. The finality rule does **not** apply to:

- contract or loan provisions or ramifications
- information or advice of FSA representatives that is not a program decision
- mediation agreements
- decisions of National FSA Office officials and SED's
- decisions of RMA or reinsured companies, NRCS, FS, or any technical service provider
- contract loss adjuster findings or conclusions.

C Subsequent Year Determination

Should a determination have multi-year consequences, such as multi-year applications and bases, the finality rule only applies through the year in which the error was found and communicated to the participant.

Example: An error in establishing base acres on a farm is discovered more than 90 calendar days after CCC-509 is approved. The participant is determined to not have any reason to suspect or know of the error. The base acres are corrected effective immediately and the participant is afforded the opportunity to re-enroll. Payments issued in error for the year where the error was discovered may be retained by the participant. However, subsequent year benefits, and any other program benefit that could arise following communication of the error to the participant, will be limited to correct base acres.

17 When Finality Rule Applies (Continued)

D Notification of Error

As soon as an error is discovered that could potentially result in an overpayment, FSA offices will do the following:

- immediately notify the participants, in writing, of the error or mistake and advise that overpayments could be determined

- advise participants that FSA will notify them, in writing, of the results of any determination made relative to the error or mistake.

Participants will be considered to be put on notice of errors or mistakes on receipt of any information about the error or mistake. Such information may be important in determining whether more than 90 calendar days has passed since the date of application.

18 When Finality Rule Does Not Apply

A Inapplicable Functions and Decisions

The finality rule does not apply to:

- functions performed under Consolidated Farm and Rural Development Act, Section 376, as amended, for FLP's
- decisions made by NRCS, CMA's, or other entities not under the jurisdiction of STC's, COC's, or area committees, or employees of those committees.

B Clean Hands Provision

For the finality rule to apply to a COC or STC (or COC or STC representative) decision, the participant must have clean hands with respect to the application and subsequent COC or STC decision.

Clean hands means:

- the erroneous decision cannot have been the result or be based, in whole or in part, on any incorrect or inaccurate information of the applicant or participant
- more than 90 calendar days has passed from the date of application (subparagraph D)
- the participant had no reason to know or way of knowing FSA's decision or payment was in error, regardless of whether FSA knew or had reason to know the decision was in error.

The finality rule does not apply if an erroneous determination is made in good faith based on incorrect information, mistakes, erroneous data, or wrongdoing by or on behalf of the participant. Wrongdoing includes, but is not limited to, any of the following:

- false statement
- fraud
- misrepresentation
- willful misconduct.

Example: An individual received payment based on his or her representation that he or she was a tenant on a farm participating in DCP. If FSA were to later discover that this representation was inaccurate, the individual would not have protection from overpayment liability under the finality rule. This is true even if it took FSA more than 90 calendar days to determine that the representation was inaccurate.

18 When Finality Rule Does Not Apply (Continued)

C Reason to Know

The finality rule does not apply if the participant had reason to know that a determination was erroneous. See Exhibit 2 for the definition of "reason to know".

D Nonfinal Determinations

The finality rule does not apply if a determination is not considered final. Preliminary determinations or determinations that involve issuing advance payments do not have finality provisions. A determination will not be considered final if any of the following apply:

- error is discovered within 90 calendar days after the application for benefits, including any required supporting documents, has been filed

  Note: See subparagraph 19 B for further information.

- determination has been appealed

- determination has been modified by the FSA Administrator or the Executive Vice-President of CCC

- determination cannot become final because the participant was put on notice that an error has been discovered according to subparagraph 17 D

- individual program provisions or forms provide that the determination is a preliminary determination.

19 Finality Rule Required Action

A Action When Finality Rule Applies

The following provides instruction about appropriate action when the originating authority has determined that the finality rule applies in a particular case. Finality rule cases may be originated at the county or State level.

Note: See paragraph 17 for further information on the applicability of the finality rule.

<table>
<tr><th>IF the benefit or payment resulting from an erroneous determination has...</th><th>THEN...</th></tr>
<tr><td rowspan="6">not been disbursed</td><td colspan="2">follow these steps.</td></tr>
<tr><td>Step</td><td>Action</td></tr>
<tr><td>1</td><td>Do not disburse the incorrect payment to the participant.</td></tr>
<tr><td>2</td><td>Document each case in COC or STC minutes, as applicable.

Do not complete FSA-321 for the participant.</td></tr>
<tr><td>3</td><td>Compute the correct payment, if any, according to the applicable program procedure.</td></tr>
<tr><td>4</td><td>Disburse the payment, if any, for the correct amount only. If the participant has been previously notified, in writing, of an erroneous determination, send a letter to the participant:

• describing the error in that previous decision

• explaining why the error is being corrected

• informing the participant of his or her appeal rights according to 1-APP.</td></tr>
<tr><td>5</td><td>Place the County Office copy of the letter in the applicable program folder.</td></tr>
</table>

19 Finality Rule Required Action (Continued)

A Action When Finality Rule Applies (Continued)

IF the benefit or payment resulting from the erroneous determination has...	THEN...	
been disbursed	follow these steps.	
	Step	**Action**
	1	Document each case in COC or STC minutes, as applicable, and on FSA-321. See Exhibit 5.
	2	Sign FSA-321 and forward to SED for final approval or disapproval. See subparagraph 71 D for additional documentation information.
	3	If approved by SED, provide written notice of the error to the participant. **Note:** See subparagraph B for action to be taken if not approved by SED. Written notice shall provide that: • refund of any overdisbursement associated with the erroneous decision is not required • the erroneous decision shall remain in effect for the year the error is communicated to the participant, and for any applicable prior years • the erroneous decision will not remain in effect for any other year or program. **Note:** See Exhibit 6 for an example of the finality rule approval letter.

19 Finality Rule Required Action (Continued)

B Action When Finality Rule Does Not Apply

The following provides instruction about appropriate action when the originating authority has determined that the finality rule does not apply in a particular case. Finality rule cases may be originated at the county or State level.

Note: See paragraph 18 for further information on when the finality rule does not apply.

IF the benefit resulting from the erroneous determination has...	**THEN...**
been disbursed	• immediately notify the participant, by letter, of the error **Note:** See subparagraph 18 D for further information on timely notification of finality rule applicability. • correct the error according to the applicable program instructions or 58-FI • record, on the County Office copy of the letter, the reason the finality rule does not apply, and file in the applicable program folder • document the decision in COC or STC minutes, as applicable.
not been disbursed	• correct the error according to the applicable program instructions and disburse the correct amount, if any • immediately notify the participant, by letter, of the correct determination. **Note:** If the erroneous decision was issued, indicate in the letter that the erroneous determination is superseded by the correct determination.

Note: The participant does not need to be notified by letter of the inapplicability of the finality rule to a determination, if the participant has not been issued an incorrect determination. Finality only potentially applies to determinations that were issued.

20 Disaster Guidelines

A When Finality Rule Applies

There can be situations specific to the filing of an application for disaster benefits when the finality rule may apply. The examples, that are merely laid out here hypothetically for illustration purposes and are not determinative, include but are not limited to, instances when:

- disaster payment or extent of eligibility was based on incorrect:
  - prices in FSA's database that are not available to the participant in some form, such as the application calculation worksheet or other media or document
  - figures or data that were entered into the automated system that were not available or evident to the participant
  - county average or some other general, nonindividual yield
- correct production evidence was incorrectly used or entered into the system and not otherwise apparent to the participant
- producer provided correct information on a cause of loss on the application and even though the loss was not an eligible disaster event or cause of loss under the program, all of the following apply:
  - claimed event or cause of loss occurred exactly as claimed by the participant
  - participant had no reason to question or know that the claimed event or cause of loss was either of the following:
    - an ineligible cause of loss
    - did not occur or failed to cause the loss.

20 Disaster Guidelines (Continued)

B Effective Date

The effective date to begin counting the 90 calendar days for finality is the date at which all of the following documentation has been filed by the producer:

- program application and any required documentation
- AD-1026
- CCC-502, CCC-902's, CCC-926, or other program documents required for payment issuance.

C When Finality Rule Does Not Apply

The finality rule does not apply if:

- a producer is simply paid in excess of the payment limitation because the producer, aware of the limitation provided in Federal regulations, had reason to know what the producer was paid and the limitation
- payment or extent of eligibility determination is made based on incorrect information submitted by, or on behalf of, the producer.

Note: There may be other examples, reasons, or situations where the finality rule does not apply.

21 CCC Loans and LDP Guidelines

A When Finality Rule Applies

The finality rule may apply to a COC or STC (or COC or STC representative) decision on a loan or LDP, if no exceptions according to subparagraph 16 A apply and an error, through no fault of the participant, was made in determining eligibility of the loan collateral or producer.

Notes: Assumedly, a participant has reason to know the participant's beneficial interest share, so an exception to the finality rule may apply.

These situations are not exhaustive.

B Effective Date for Loans

The effective date to begin counting the 90 calendar days for finality on decisions made on commodity loans is the date the applicable loan note and security agreement, including all required supporting documents, such as AD-1026, is signed by the loan participant.

Note: Finality does not relieve a loan participant of any actual or real loan obligation, notwithstanding any errors in the loan.

C Effective Date for LDP's

The effective date to begin counting the 90 calendar days for finality a COC or STC (or COC or STC representative) decision on:

- LDP's other than field direct, is the date CCC-633 EZ, including all required supporting documents, such as AD-1026 and CCC-502, CCC-902's, or CCC-926, is signed by the producer

- field direct LDP's, is the date the final production evidence is provided by the LDP participant.

21 CCC Loans and LDP Guidelines (Continued)

D When Finality Rule Does Not Apply

The following provides some example situations of when the finality rule does **not** apply to loans or LDP's.

Note: These situations are not exhaustive.

WHEN...	THEN the finality rule does not apply because...
producer received a market loan gain or LDP, based on production evidence provided by the producer that was later determined to represent ineligible production or was determined to be erroneous	• the producer is not considered to have clean hands with regard to the benefit (subparagraph 18 B) • the producer knew or had reason to know that the production was in error or ineligible.
producer provided final production evidence for a loan with marketing loan repayments or LDP that shows that the quantity is: • ineligible for the loan or LDP • less than the loan or LDP quantity	• any and all commodity loans or LDP's are subject for spot check **Note:** In this example, the final actual determination is made based on actual eligible production (subparagraph 17 B). • it should be obvious to the producer that the production evidence was deficient or ineligible. **Note:** This may also be considered a misrepresentation.
loan or LDP amount was incorrect because of the incorrect loan or LDP quantity	• any and all commodity loans or LDP's are subject for spot check **Note:** In this example, the final actual determination is made based on actual eligible production (subparagraph 17 B). • the producer is responsible for the loan or LDP quantity. **Notes:** Clean hands provision applies (subparagraph 18 B) This may also be considered a misrepresentation.
spot check of a farm-stored loan reveals less quantity than the loan quantity **Note:** This applies even if an earlier measurement was determined to be in error.	

21 CCC Loans and LDP Guidelines (Continued)

D When Finality Rule Does Not Apply (Continued)

WHEN...	THEN the finality rule does not apply because...
producer received a loan or LDP, but was later determined ineligible because: • of a program violation committed by the producer • it was discovered that the producer was a nonresident alien	the producer violated program provisions. See subparagraph 17 B.
producer received a loan or LDP based on the producer's certification that beneficial interest was retained	the producer did not certify correctly. **Notes:** This may be considered a misrepresentation. In this example, while FSA may have approved LDP based on the representations of the producer, FSA's later determining that the producer did not have beneficial interest, as claimed, results in finality not applying to the payment. See subparagraph 17 B. An FSA decision that something is met does not mean that it is met.
the quality of the commodity delivered to CCC for settlement of loan results in deficiency due CCC	the producer is responsible for the quality and maintaining the condition of the commodity.

22 NAP Guidelines

A When Finality Rule Applies

There are a number of situations when the finality rule may apply to COC or STC (or COC or STC representative) NAP decisions. They include, but are not limited to, situations where none of the exceptions in subparagraph 16 A exists and:

- an FSA representative calculated NAP payments for the crop using incorrect payment factors, such as “prevented planting”, “planted but not harvested”, or “harvested”

  Note: In this example, the error is in the numeric factor itself, not in whether the acreage was correctly identified as “prevented planting”, “planted but not harvested”, or “harvested”.

- an incorrect payment rate was used to calculate payments.

B Effective Date

The effective date to begin counting the 90 calendar days for finality, on a decision on NAP benefits, is the date at which all required applications and documentation have been filed by the producer.

Note: See 1-NAP for further information about application for NAP benefits.

22 NAP Guidelines (Continued)

C When Finality Rule Does Not Apply

The following provides some situations when the finality rule does **not** apply.

Note: These situations are not exhaustive.

WHEN...	THEN the finality rule does not apply because...
payment was erroneously calculated because not all of the crop's production or acreage was accounted for	producers are responsible for reporting all production and acreage. See subparagraph 18 B.
producer received NAP payments and other USDA assistance for the same crop loss	the producer knows or has reason to know: • that producer received other USDA assistance and NAP • of the multiple benefit exclusion provision under NAP.
producer received payment with the knowledge that the producer's crop did not suffer more than a 50 percent loss of expected production	the producer knows or has reason to know that NAP benefits cannot be paid if the crop's production loss is 50 percent or less.

23-40 (Reserved)

Part 3 Equitable Relief Provisions

41 Applicability of Equitable Relief to Program Decisions

A Covered Programs

[7 CFR 718.301] Applicability.

(a) This subpart is applicable to programs administered by the Farm Service Agency under chapters VII and XIV of this title, except for an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.)*. Administration of this subpart shall be under the supervision of the Deputy Administrator, except that such authority shall not limit the exercise of authority allowed State Executive Directors of the Farm Service agency as provided for in §718.307.

(b) Sections 718.303, 718.304, and 718.307 do not apply where the action for which relief is requested occurred before May 13, 2002. In such cases, authority that was effective prior to May 13, 2002, may be applied.

(c) Section 718.306 does not apply to a function performed under either section 376 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.)*, or a conservation program administered by the Natural Resources Conservation Service of the United States Department of Agriculture.

Programs administered by FSA for which equitable relief provisions apply include:

- price or income support, production or market loss assistance, disaster payment assistance, or revenue protection programs provided to participants under various program rules or authorities
- energy and/or conservation programs

Equitable relief provisions are not applicable to FLP's carried out under the Consolidated Farm and Rural Development Act.

41 Applicability of Equitable Relief to Program Decisions (Continued)

B Available Forms of Equitable Relief

[7 CFR 718.305] Forms of relief.

(a) The Administrator of FSA, Executive Vice President of CCC, or designee, may authorize a participant in a covered program to:

(1) Retain loans, payments, or other benefits received under the covered program;

(2) Continue to receive loans, payments, and other benefits under the covered program;

(3) Continue to participate, in whole or in part, under any contract executed under the covered program;

(4) In the case of a conservation program, re-enroll all or part of the land covered by the program; and

(5) Receive such other equitable relief as determined to be appropriate.

(b) As a condition of receiving relief under this subpart, the participant may be required to remedy their failure to meet the program requirement, or mitigate its affects.

Using the equitable relief provisions of Part 3 for a covered program, FSA has discretionary authority to grant relief to a participant to:

- retain loans, payments, or other benefits received
- continue to receive loans, payments, and other benefits
- participate, in whole or part, under any contract
- in the case of a conservation or energy program, re-enroll all or part of the land
- receive other relief, as determined appropriate by FSA at FSA's discretion.

Forms of equitable relief applicable to covered programs and available for consideration by FSA are summarized, together with finality rule provisions, in paragraph 3.

42 Prerequisites to Equitable Relief

A Overview

Before considering whether to recommend, approve, or deny relief, COC or STC must ensure that there is a program matter or extent of eligibility at issue.

Example: A participant wants relief for late-filed application or contract. In this instance, the application or contract must be signed and submitted to FSA for action before any of the following occur:

- FSA is required to act on the application or contract
- FSA issues a decision on the application or contract
- relief can be considered.

Program participants are entitled to program payments and decisions on program payments, when they qualify and meet program requirements, or when they file a valid application. Relief, or even the consideration of relief by FSA, is discretionary. Participants are not "entitled" to either relief or even the consideration of relief.

An FSA decision declining to consider relief is not an adverse decision. If FSA exercises discretion, considers relief, and issues a relief decision, the relief decision can be appealed. See 1-APP.

Generally, the question of whether to consider relief rises when there has been some unintended or inequitable result because of some unintended error or oversight.

A key item to consider when deciding whether to exercise discretion to consider relief is if the relief would make the participant better off than someone who met all program requirements, followed the rules, or qualified or satisfied all conditions for payment.

Example: If a program requires participants to report by a deadline, so that FSA may verify the accuracy of the report, granting a participant relief to report at a very late date might preclude FSA from being able to verify whether the report is accurate (in contrast with participants who filed timely reports and, as a result, those participants were found to be ineligible). Granting relief to approve a significantly later filed report could unintentionally give the late filer an advantage over participants who filed timely because the late filer's report cannot be verified.

See paragraph 3 for steps in determining whether equitable relief may apply.

42 Prerequisites to Equitable Relief (Continued)

B Objectives in Farm Program Delivery of Covered Programs

FSA's objective in farm program delivery is an equitable application of program provisions to a set of facts that are determined based on information submitted with the application or contract. FSA is responsible for ensuring that programs benefits are issued or are extended only to those who satisfied applicable program requirements, are in compliance, and are eligible.

When FSA develops program rules, equity and consistency are considered along with the program's objectives, requirements, and authorization. Therefore, equitable relief provisions are not intended to be used simply because someone dislikes the result of a correct application of rules to a set of facts. Rather, for covered programs, FSA has discretion to consider equitable relief, if FSA deems it appropriate in instances when unanticipated errors or results occur that could cause an inequity to occur.

B Initiating Relief Requests

Requests for relief may be initiated:

- by the participant, COC, or STC
- as a result of findings during a request for reconsideration or appeal.

See paragraph 3 about steps in determining whether equitable relief is appropriate.

43 Programmatic Relief

A Overview

In individual circumstances or cases involving similar or like circumstances, DAFP has authority to allow STC's and COC's to waive or modify deadlines or other nonstatutory requirements where FSA determines it equitable to do so and where the lateness or failure to meet the program requirement is not adverse to the operation or integrity of the program.

Participants have no "right" to seek an exception under this provision. At FSA's sole discretion, under the authority laid out in the particular regulation governing the program at issue, FSA may or may not choose to exercise discretion to grant programmatic relief.

The provisions of paragraph 3 still apply about steps to consider when deciding whether a case warrants relief consideration.

Note: Regardless of the amount of money involved, only DAFP has programmatic relief authority. See subparagraph C.

B Adherence to Individual Program Regulations, Contract Provisions, and Specific Program Directives

Everything in this handbook relating to programmatic relief is subject to provisions of the individual program at issue including, but not limited to:

- statute or law authorizing the program
- regulation
- handbooks and notices
- contract or contract appendix
- agreement, application, or program document signed by the participant.

Note: Many individual handbooks issued by DAFP already have programmatic relief provisions incorporated.

C Limitation on Using Programmatic Relief

Unless a specific written delegation has been made by DAFP in either memorandum or program directive, only DAFP has programmatic relief authority.

Programmatic relief cannot be used to usurp or circumvent statute, law, or contract law.

Example: A particular program authorization specifies in law that applications must be received by September 30 to receive approval consideration or payment. Programmatic relief cannot be used to permit consideration for approval of any application received after the end of the application period specified in law.

44 Misaction/Misinformation

A Overview

Equitable relief may be considered and granted according to this paragraph to participants in covered programs that acted or failed to act based on a detrimental reliance on incorrect program information, action, or advice of an authorized FSA representative.

A finding that erroneous action or information of or from an authorized FSA representative may have occurred does not necessarily mean that the error warrants extending relief. As provided in subparagraph B, relief under the misaction/misinformation provisions can only apply if there was also a detrimental reliance by a participant and the participant had no reason to know or question that the action or advice of the FSA representative was in error. The provision also cannot apply to cases where a participant acted or failed to act based on the participant's own misunderstanding, lack of information or advice, or assumptions.

Note: According to instructions in Exhibit 5, FSA-321, item 9B:

- must include a name of the FSA representative responsible for the error or conveyance of incorrect program information or advice
- will not be left blank, if a recommendation of relief is being made on the form under the provisions of this paragraph.
- must not be blank or have an ambiguous entry, such as "County Office", or anything that does not specifically identify the individual responsible for the erroneous program information, action, or advice.

Relief under misaction/misinformation must still be determined equitable. Relief is not intended to give participants an unfair advantage over persons who were not impacted by error. Relief is to mitigate otherwise inequitable results from errors.

44 Misaction/Misinformation (Continued)

B Regulatory Language

[7 CFR 718.303] Reliance on Incorrect Actions or Information.

(a) Notwithstanding any other law, action or inaction by a participant in a covered program that is to the detriment of the participant, and that is based upon good faith reliance on the action or advice of an authorized representative of a STC or COC, may be approved by the Administrator, FSA or the Executive Vice President, CCC, as applicable, or their designee, as meeting the requirements of the program, and benefits may be extended or payments made in accordance with §718.305.

(b) Equitable relief under misaction/misinformation applies only to a participant who relied upon the action of, or information provided by, a STC or COC or an authorized representative of such committee and the participant acted, or failed to act, as a result of the FSA action or information. The provision does not apply to cases where the participant had sufficient reason to know that the action or information upon which they relied was improper or erroneous or where the participant acted in reliance on their own misunderstanding or misinterpretation of program provisions, notices or information.

When considering if relief under misaction/misinformation is justified, FSA will review all of the following:

- did an authorized FSA representative provide incorrect information or advice or incorrectly act
- was there a detrimental reliance by a participant on that incorrect information, advice, or action
- if it is reasonable for the participant to have detrimentally relied upon the erroneous information, advice, or action and did the participant have any reason to know, suspect, or question that the information, advice, or action was inappropriate.

Evidence that a participant received incorrect program information or advice that could have a detrimental effect if relied on is not a sufficient basis to conclude that relief under this provision is warranted. The reviewing authority must determine if the participant had **reason** to know that the advice or action relied on was incorrect, was not furnished in reliance on inaccurate information furnished to FSA by the participant, and that the participant otherwise acted in good faith.

See Exhibit 2 for definitions of clean hands and reason to know.

44 Misaction/Misinformation (Continued)

C Areas Not Subject to Misaction/Misinformation Equitable Relief

Equitable relief under misaction/misinformation provisions do **not** apply to the following:

- FLP's carried out under the Consolidated Farm and Rural Development Act

- programs not administered by FSA

  Example: EQIP is a program where NRCS has primary responsibility. NRCS will administer EQIP without any regard to FSA's equitable relief provisions.

- cases where an FSA representative cannot be identified as having erred or provided erroneous program information or advice on which a detrimental reliance claim could possibly be made or alleged

  Example: A participant alleges that the participant asked an FSA employee if there was anything else the participant needed to sign or do before leaving the office. The participant alleges that the FSA employee responded by saying, "no".

  FSA can only "assist" participants with enrollment. An FSA employee cannot enroll the participant's farm without the participant knowing or having reason to know that enrollment occurred. Participants are responsible for enrollment and only a participant can enroll the participant's own farm. Additionally, the deadline for enrollment is included in published regulations and in widely publicized public forums, such as newsletters, internet, press announcements, etc. Therefore, in this example, the participant has "reason to know" (remember, the "reason to know" is the test; not the participant's actual degree of knowledge) of their own actions or inactions, whether they themselves personally enrolled or not, as well as having access to information about the deadline for enrollment.

  In this example, while a person may interpret the FSA employee saying "no" in response to the question of whether there was anything else required as a communication from FSA that the person has already enrolled, the test under misaction/misinformation is whether there was any incorrect program information or advice conveyed directly to the participant by FSA, and whether the participant had any reason to know that the information was incorrect. In this example, FSA did not say or convey any incorrect information. Additionally, it appears the participant relied on the participant's own understanding of the information conveyed. If on the other hand, the FSA employee had stated that the participant had up to 3 weeks later to sign up, such communication might be considered a basis for a valid misaction/misinformation claim or request, provided the participant had no reason to question that advice or information and the participant acted to the participant's own detriment on reliance on that incorrect information (came in before COB within 3 weeks of the deadline).

44 Misaction/Misinformation (Continued)

C Areas Not Subject to Misaction/Misinformation Equitable Relief (Continued)

- instances where a specific FSA employee or representative cannot be identified as responsible for the error or conveyance of incorrect program information

- cases where the participant had reason to know or question the erroneous program information or advice

- cases where there was no detrimental reliance by the participant who was the direct recipient of incorrect program information or advice

- producers who acted based on their own interpretations, misunderstandings, assumptions, of program information or advice

- programs not directly administered by FSA, including grant programs or programs only implemented by FSA on behalf of other Agencies or Departments.

45 Failure to Fully Comply

A Overview

The equitable relief provisions of this paragraph apply only to enrolled participants under covered programs who are subject to compliance with the covered program's provisions. These provisions are not to be applied to late-filed application or failure to meet some signup deadline. Late signups or applications are generally covered under paragraph 43 or in individual program directives and regulations.

The failure to fully comply provisions are intended to allow FSA discretion to consider allowing a participant in a covered program to receive program benefits or reduced program benefits, as determined appropriate by FSA, in consideration of the participant's good faith effort to comply, rendered performance, and severity of the program violation or discrepancy.

B Regulatory Text

[7 CFR 718.304] Failure to fully comply.

(a) Under a covered program, when the failure of a participant to fully comply with the terms and conditions of a program authorized by this chapter precludes the providing of payments or benefits, relief may be authorized in accordance with §718.305 if the participant made a good faith effort to comply fully with the requirements of the covered program.

(b) This section only applies to participants who are determined by the FSA approval official to have made a good faith effort to comply fully with the terms and conditions of the program and rendered substantial performance.

Key to applying the provision of this paragraph is an analysis of the participant's good faith effort to comply. In such an instance and when, for some good reason, the participant who intended to comply failed to satisfy all program compliance provisions.

C When Failure to Fully Comply Equitable Relief Provisions May Apply

Relief under the failure to fully comply provisions may apply if all the following occur:

- a participant demonstrated a good faith effort to comply with the current program provisions
- the participant rendered substantial performance
- the participant acted to remedy the failure to fully comply or is prepared to mitigate the failure, if required to as a condition of relief by FSA according to this paragraph and subparagraph 41 B.

45 Failure to Fully Comply (Continued)

D Analysis of Whether Good Faith Effort and Substantial Performance Occurred

Reviewing authorities will consider the following when analyzing if a participant in a covered program demonstrated a good faith effort to comply and rendered substantial performance:

Notes: If information or facts not illustrated or discussed in this subparagraph exist, the reviewing authority may still be able to make a recommendation.

FSA's inability to find that a participant did not demonstrate a good faith effort to comply or substantial performance does not mean that the reviewing authority has determined the participant to have acted badly or with disregard for the program. Rather, the good faith effort and substantial performance standard is what the participant must be found to have made or done, as applicable, to determine if equitable relief under this subparagraph is warranted, given the failure to comply or violation.

- did the participant provide all required information timely and honestly without any misrepresentation, concealment, or intention to evade any program compliance provision
- how the participant demonstrated a good faith effort to comply
- whether the participant brought the failure to FSA's attention or if FSA learned of the program failure or discrepancy by other means
- if the failure was the result of oversight and not an intent of the participant to comply with only some of the program requirements
- the actual performance rendered by the participant toward compliance with the program's requirements.

Note: A participant's past year participation in a program is not evidence of current year good faith effort or performance. However, a pattern of program discrepancies of a similar nature in prior years or other applications may cause a reviewing authority to question if current failure to fully comply justifies equitable relief consideration in the current year.

45 Failure to Fully Comply (Continued)

E Extent of Relief

Equitable relief may be granted, according to this paragraph, to the extent FSA deems it appropriate. In general, relief should not be granted to allow a participant who failed to comply with all program requirements to receive the exact same benefit as participants who fully complied, unless of course the failure is not determined to be great. Relief should not be granted to give a participant an undue advantage over participants who fully complied with all program provisions.

F Relation to Other Provisions

Equitable relief, under the provisions of this paragraph for a covered program and participant, cannot be used to usurp or supersede:

- statute or law
- relief provisions of individual programs (for example, RMPR relief provisions).

46 COC Guidelines for Recommending Equitable Relief

A Items to Review and Document

COC will review and document the basis for recommending equitable relief, including the following:

- actions by the participant that resulted in noncompliance, if applicable

  Note: If relief is being considered under either paragraph 43 or 45, the participant's signed and dated statement is required as documentation.

- the basis for determining that a good faith effort to fully comply and substantial performance was made

- for cases of misaction/misinformation:

  - County Office employee's statement or statements indicating the incorrect information or action that resulted in the participant being out of compliance

    Notes: This statement is to document whether erroneous information was provided.

    If relief under paragraph 44 is being considered, COC must make factual findings on whether an FSA employee or representative erred or misacted and how the participant detrimentally relied on that error or misaction.

  - documentation or correspondence that could have caused the participant to receive the incorrect information, such as newsletters, news articles, or letters (paragraph 42).

B Recommendation to STC

COC will define and document the following according to Part 4:

- misaction/misinformation or failure to fully comply that occurred
- factors warranting programmatic relief authorized under the particular program
- action recommended to STC.

47 STC Authority and Action

A STC Authority

STC may grant relief up to $5,000 per case under the provisions of the following:

- misaction/misinformation on the part of FSA employees
- failure to fully comply on the part of program participants.

Note: Unless otherwise specifically delegated in individual program directives or decisions by DAFP, only DAFP can approve programmatic relief.

--Example:** 1-DCP contains a delegation of programmatic relief for certain late-filed enrollments. This is an example of programmatic relief delegation.**--

B Limitations

Authority under this part does not apply to:

- *** * *** cases where the participant acted on his or her own misunderstanding or misinterpretation of program provisions, notices, advice, or information

- the reinstatement of expired or terminated CRP-1's under any circumstances, regardless of the dollar amount.

C Adverse Decision

Cases that result in adverse decisions or partial relief by STC, must be returned to COC, who will inform the participant of appeal rights to STC or NAD. See 1-APP.

48 Special Equitable Relief Authority for SED's

A Regulatory Text

[7 CFR 718.307] Special relief approval authority for State Executive Directors.

(a) ***General nature of the special authority.*** **Notwithstanding provisions in this subpart providing supervision and relief authority to other officials, an SED without further review by other officials (other than the Secretary) may grant relief to a participant under the provisions of §§718.303 and 718.304 as if the SED were the final arbiter within the agency of such matters so long as:**

(1) The program matter with respect to which the relief is sought is a program matter in a covered program which is operated within the State under the control of the SED;

(2) The total amount of relief which will be provided to the person (that is, to the individual or entity that applies for the relief) by that SED under this special authority for errors during that year is less than $20,000 (including in that calculation, any loan amount or other benefit of any kind payable for that year and any other year);

(3) The total amount of such relief which has been previously provided to the participant using this special authority for errors in that year, as calculated above, is not more than $5,000;

(4) The total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by the SED (or the SED's predecessor) for errors for any year under the authority provided in this section, as calculated above, is not more than $1,000,000.

(b) ***Report of the exercise of the power.*** **A grant of relief shall be considered to be under this section and subject to the special finality provided in this section only if the SED grants the relief in writing when granting the relief to the party who will receive the benefit of such relief and only if, in that document, the SED declares that they are exercising that power. The SED must report the exercise of that power to the Deputy Administrator so that a full accounting may be made in keeping with the limitations of this section. Absent such a report, relief will not be considered to have been made under this section.**

48 Special Equitable Relief Authority for SED's (Continued)

A Regulatory Text (Continued)

(c) ***Additional limits on the authority.*** **The authority provided under this section does not extend to:**

(1) The administration of payment limitations under part 1400 of this chapter (§§1001 to 1001 F of 7 U.S.C. 1308 *et seq.*);

(2) The administration of payment limitations under a conservation program administered by the Secretary; or

(3) Highly erodible land and wetland conservation requirements under subtitles B or C of Title XII of the Food Security Act of 1985 (16 U.S.C. 3811 *et seq.*) as administered under 7 CFR part 12.

(d) Relief may not be provided by the SED under this section until a written opinion or written acknowledgment is obtained from OGC that grounds exist for determination that the program participant has, in good faith, detrimentally relied on the guidance or actions of an authorized FSA representative in accordance with the provisions of this subpart, or that the producer otherwise failed, in good faith, to fully comply with the requirements of the program and that the granting of the relief is within the lawful authority of the SED.

(e) ***Relation to other authorities.*** **The authority provided under this section is in addition to any other applicable authority that may allow relief. Generally, the SED may, without consultation other than with OGC, decide all matters under $20,000 but those decisions shall not be subject to modification within the Farm Service Agency to the extent provided for under the rules of this section.**

48 Special Equitable Relief Authority for SED's (Continued)

B Special Relief Authority

Except for programmatic relief reserved for DAFP, SED may approve relief for cases involving either incorrect action or information of FSA personnel, or failure to fully comply by the participant, subject to all of the following:

- total amount of relief being provided to the participant under this special authority is **less than** $20,000 per calendar year

  Note: Include in that calculation any loan amount, payment, or other benefit payable for that year and any other year because of the relief being approved.

- total amount of relief previously provided to the participant under this special authority is **not** more than $5,000 during the calendar year

  Note: Additional relief may be granted by DAFP.

- total amount of relief provided by SED during the calendar year to similarly situated participants under this special authority for the current year or any other year is **not** more that $1 million

  Example: Relief is requested for 80 participants under NAP for the same program year and the same misinformation basis. Requested relief for any 1 participant does not exceed the authority of SED, but the total requested relief for the similarly situated participants is $1.1 million. Although the relief for each of the individual participants in this example does not exceed the SED authority, the total amount of relief for similarly situated participants ($1.1 million) exceeds the maximum authority for similarly situated participants.

- SED has received written concurrence from OGC that:

  - grounds exist for determination that the participant has, in good faith, detrimentally relied on the actions of or information from an authorized FSA representative, or that the participant otherwise failed, in good faith, to fully comply with the requirements of the program

  - granting of the relief is within the lawful authority of SED.

    Notes: OGC concurrence may be indicated on FSA-321 or by a separate memorandum.

    If OGC does not concur with SED's request for the exercise of special relief authority, the request **shall not** be forwarded to DAFP for consideration. The matter will be considered closed with regard to the exercise of discretion to equitable relief by SED under this paragraph.

48 Special Equitable Relief Authority for SED's (Continued)

B Special Relief Authority (Continued)

This special authority does not extend to administering:

- payment limitation and payment eligibility provisions, including the average AGI limitation
- HELC and WC provisions.

Cases outside this special approval authority may be submitted to DAFP for consideration.

C Adverse Decisions

SED's cannot exercise discretion to render any sort of decision on equitable relief under this paragraph without express written concurrence of OGC according to subparagraphs A and B.

As a general rule, an SED's decision to decline exercising authority to consider equitable relief is not an adverse decision giving rise to any sort of appeal or appealability review right.

Cases that result in adverse decisions or partial relief by SED, must be returned to COC.

D Report of Special Relief Approval

SED shall report the exercise of the special relief approval authority according to Part 4.

49 Preventing Future Need for Relief

A Background

It can be expensive and cumbersome for FSA to extend unearned program benefits to a producer because of action or advice of an FSA employee or representative. It may also undermine program integrity. The expense includes the unnecessary administrative costs, as well as the program costs, for which there is no program benefit. It is important that COC's and STC's take corrective action to minimize unearned program benefit costs.

B Corrective Action

When a bona fide relief case occurs, corrective action must be taken to lessen future incidence of these errors. Corrective action may include, but is not limited to, the following:

- additional training by any cost-effective means available
- office procedure revision
- more serious action, if warranted.

C Plan of Corrective Action for Equitable Relief and Finality Rule

SED's will prepare a written plan identifying weaknesses in program delivery. This may include sharing the following with all offices to minimize mistakes in program delivery:

- portions or entire County Office review information
- high incidents of relief cases of a particular nature.

The plan will include both equitable relief and finality rule issues within the State.

DD's will be responsible for training CED's, FLM's, and PT's when corrective actions must be taken.

49 Preventing Future Need for Relief (Continued)

D Submitting Plan of Corrective Action for Equitable Relief and Finality Rule (PA-136R)

SED will submit a copy of the plan of corrective action for equitable relief and finality rule required in subparagraph C to DAFP by January 3 each year. Report must be submitted to DAFP by FAX at 202-690-2130. The plan of corrective action for equitable relief and finality rule shall:

- include an analysis of relief cases acted on during the previous calendar year, along with any identified weaknesses in program delivery
- list the corrective action undertaken or planned including implementation dates.

Negative reports are required.

E Recurring Request for Relief Because of County Office Error

When recurring request for relief has been submitted to SED, STC, or DAFP, appropriate disciplinary action shall be taken.

50-70 (Reserved)

Part 4 Documentation and Reports

71 Documentation

A Introduction

Document each case for which the finality rule or equitable relief is determined to apply:

- in COC or STC minutes, as applicable
- on FSA-321.

Notes: SED determinations made according to paragraph 48 are not required to be documented in STC minutes.

In rare instances, a relief authority may render a decision on finality or equitable relief without FSA-321. This should be very rare; however, if this occurs, the absence of FSA-321 in and by itself will not be considered to be an error in the reviewing authority's relief decision.

B Documentation for Finality Rule

At a minimum, include the following information in COC minutes for finality rule cases:

- type of error
- effective date
- program
- program year
- farm, loan, or contract number
- producer's name
- incorrect amount paid
- amount that should have been paid.

C Documentation for Equitable Relief

Include the following information in COC minutes before submitting equitable relief cases to STC or SED:

- producer's name
- program year
- program

71 Documentation (Continued)

C Documentation for Equitable Relief (Continued)

- for cases of misaction/misinformation, both of the following:
  - incorrect action or advice conveyed by the FSA employee or representative
  - name of FSA employee or representative who erred
- action producer took based on misaction/misinformation
- farm, loan, or contract number
- incorrect amount paid
- amount that should have been paid
- for cases of programmatic relief, factors specific to the program may be specified in individual program regulations, contracts, applications, or directives.

D Submitting FSA-321 and Documentation

County Offices shall submit FSA-321 and documentation to the State Office according to the following.

Step	Action
1	Submit 1 copy to the State Office.
2	Keep 1 copy for County Office records.
3	Submit all pertinent documentation of the case used for the COC meeting.
4	Submit only those pages of COC minutes that document COC's recommendation.
5	Submit a copy of the entire case file, in chronological order, to the State Office.

State Offices shall submit the entire case file, including FSA-321, in chronological order to DAFP with a recommended action of relief for all cases that exceed the authority of STC *** * ***.

Notes: FSA-321 is required for **all** specified programs for which equitable relief or application of the finality rule is requested under the provisions of this handbook.

In the rare event that FSA-321 is not prepared as required, that error in and by itself, will not be considered to be an error in the relief decision.

Reviewing authorities detecting a missing FSA-321 may:

- remand the case for preparation of FSA-321
- document the omission of FSA-321 together with a decision why a decision can be made without FSA-321 (this should be rare).

72 Reports

A SED Report of Exercise of Special Approval (PA-134R)

SED's who exercise the special relief approval authority, according to paragraph 48, must report the exercise of such authority using the format in Exhibit 10. SED Report of Exercise of Special Approval (PA-134R) shall be submitted:

- to PECD by FAX at 202-690-2130
- on approval of each case of relief to a participant using the special relief approval authority of SED.

It is not necessary to report the name or ID number of the participant receiving relief. However, SED Report of Exercise of Special Approval (PA-134R) shall reflect the total relief being granted to the participant using the special relief approval authority of SED. For example, if a participant is granted relief under multiple programs, each program shall be listed, but the amount of relief approved shall reflect the total relief approved.

B Report of Equitable Relief (PA-135P)

The statute requires an annual report of the number of requests for equitable relief and the disposition of the request. Each State Office shall submit Report of Equitable Relief (PA-135P) using the format in Exhibit 11.

Report of Equitable Relief (PA-135P):

- must be submitted to PECD by FAX at 202-690-2130 by January 3 each year

  Note: Negative reports are required.

- shall cover **all** cases for which equitable relief under misinformation/misaction or failure to fully comply was requested according to the provisions of this handbook.

  Notes: This includes any case for which equitable relief was approved or denied during the calendar year, by any approving authority, if the basis for relief occurred on or after May 13, 2002.

  The report does **not** include programmatic relief.

72 Reports (Continued)

C Report of Finality Rule (PA-129R)

DAFP requires an annual report of the number of cases to which the finality rule was applied. Each State Office shall submit Report of Finality Rule (PA-129R) using the format in Exhibit 12.

Report of Finality Rule (PA-129R):

- must be submitted to PECD by FAX at 202-690-2130 by January 3 each year

  Note: Negative reports are required.

- shall cover **all** cases to which the finality rule was applied, according to the provisions of this handbook, during the calendar year.

D Submitting Reports to FMD

PECD will:

- summarize the annual Report of Equitable Relief (PA-135P) and Report of Finality Rule (PA-129R) reports

- provide a copy of the summarized annual Report of Equitable Relief (PA-135P) and Report of Finality Rule (PA-129R) reports to FMD for Improper Payments Information Act, Pub. L. 107-300 purposes.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required reports in this handbook.

Report Control Number	Title	Reporting Period	Submission Date	Negative Report	Reference
PA-129R	Report of Finality Rule	Annually	January 3	Yes	72
PA-134R	SED Report of Exercise of Special Approval	Case-by-Case	Upon Approval	No	72
PA-135P	Report of Equitable Relief	Annually	January 3	Yes	72
PA-136R	SED Corrective Action Plan	Annually	January 3	Yes	49

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		20, 21
CCC-502	Farm Operating Plan for Payment Eligibility Review		20, 21
CCC-509	Direct and Counter-Cyclical Program (DCP) Contract and Average Crop Revenue Election (ACRE) Contract		16
CCC-633 EZ	Loan Deficiency Payment (LDP) Agreement and Request		21
CCC-902 Continuation	Continuation Sheet for Leased or Owned Land (Attach to Form CCC-902I or CCC-902E)		20, 21
CCC-902E	Farm Operating Plan for an Entity - 2009 and Subsequent Program Years		20, 21
CCC-902E Continuation	Continuation Sheet for Farm Operating Plan for an Entity - 2009 and Subsequent Program Years		20, 21
CCC-902EYR	End-of-Year Report of payment Limitation Review		20, 21
CCC-902I	Farm Operating Plan for an Individual - 2009 and Subsequent Program Years		20, 21
CCC-902I Short Form	Farm Operating Plan for an Individual - 2009 and Subsequent Program Years		20, 21
CCC-926	Average Adjusted Gross Income (AGI) Statement		20, 21
CRP-1	Conservation Reserve Program Contract		47
FSA-321	Finality Rule and Equitable Relief	Ex. 5	16, 19, 44, 48, 71, Ex. 10-12

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
RMPR	Risk Management Purchase Requirement	3, 45

Redelegations of Authority

This table lists the redelegation of authority in this handbook.

Redelegation	Reference
DAFP has delegated the authority to approve or disapprove some finality rule cases to SED's.	16
DAFP has delegated the authority to approve or disapprove some equitable relief cases to STC's.	3

Definitions of Terms Used in This Handbook

Clean Hands

Clean hands mean:

- the erroneous decision must not have been based, in whole or in part, on any incorrect or inaccurate information furnished by or on behalf of the applicant or participant
- passage of more than 90 calendar days from the date of application or decision is not a result of knowing inaction by an affected participant
- the participant had no reason to know or way of knowing FSA's decision or payment was in error, regardless of whether FSA knew or had reason to know the decision was in error
- the participant's conduct in the matter has not violated conscience or good faith.

Covered Program

Covered program means a program administered by FSA under 7 CFR, Chapters VII and XIV, with the exception of the agricultural credit programs carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

Effective Date

Effective date means the date:

- to begin counting the 90 calendar days for purposes of the finality rule
- the participant's application for benefits is considered filed according to Part 2.

Notes: The date of the erroneous decision does not determine the date at which to begin counting the 90 calendar days.

The application for benefits must include any required supporting documents to be considered filed.

Reason to Know

Reason to know means information was available to a participant in some form causing the participant to know, suspect, or be on notice that something was incorrect or wrong, or at least have knowledge of the correct information, regardless of whether a participant actually knew something was wrong.

Note: Under the "reason to know" standard, it is "reason" that is at issue; not knowledge.

Definitions of Terms Used in This Handbook (Continued)

Reason to Know (Continued)

Reason to know is not what a participant actually knew or constructively knew; rather, the standard is if a participant had **reason** to know of something. The standard is objective. Its application does not depend on what a particular participant being considered for relief or finality did not know or failed to notice.

If a participant had any reason to know or suspect that something was incorrect or wrong, regardless of whether the participant actually knew it was wrong, the participant is considered to have a "reason to know".

The "reason to know" standard applies to the participant, not FSA. FSA's having erred or in providing incorrect information or advice does not automatically vest a participant with no reason to know of error or that a mistake has been made. If that were the case, there would be no standard to apply.

The reason to know standard applies to the following:

- equitable relief under the detrimental reliance provisions of misaction/misinformation (paragraph 53)

- the finality rule (paragraph 16).

Generally, a participant is not eligible for equitable relief under misaction/misinformation, or protection under the finality rule, if the participant had any reason to know or suspect any of the following as may be applicable:

- that either information or advice of an authorized FSA representative was in error
- that a decision of FSA was wrong or in error.

In analyzing whether or not a participant had "reason to know", reviewing authorities need to consider:

- whether correct program information or advice was available in any forum or media that could have given the participant cause to question or suspect that information or advice or a decision was in error

- if the error was so large that the participant had reason to question or suspect something was not right.

The extent to which correct program information is available in either a case file, various public forums, or media (statutes, public laws, published regulations, program documents signed by the participant or acknowledged as having been received) helps to establish if the participant has "reason to know."

FSA-321, Finality Rule and Equitable Relief

A Completing FSA-321

Complete FSA-321 according to the following.

Item	Instructions
1 and 2	Enter State and county name.
3	No entry is necessary. A control number will be automatically entered when the web-based FSA-321 becomes available and the manually prepared FSA-321 is loaded in the web-based application.
4	Enter the program year in which finality rule, misaction/misinformation, failure to fully comply, or programmatic relief applies.
5	Enter the program in which finality rule, misaction/misinformation, failure to fully comply, or programmatic relief occurred.
6	Enter the reference number, such as farm number, contract number, or loan number, as applicable.
7	Check the applicable box.
8 through 10	Complete for all finality rule, misaction/misinformation, failure to fully comply, and programmatic relief cases. ***--Notes:** For item 9A, summarize the matter. If misaction/misinformation is checked in item 7, attach a statement signed and dated by the producer.**--*** For item 9B, if misaction/misinformation is checked in item 7, enter name of FSA employee or representative. Do **not** enter, "County Office" or "Unknown". This is a **required** entry. See paragraph 44.
11A and 11B	Complete for finality rule cases only.
12A	For: •***--**finality rule, enter the total amount of the payment subject to finality. Do not enter an amount if this erroneous payment was not made**--*** • misaction/misinformation or failure to fully comply, enter the incorrect amount paid or to be paid because of the misaction/misinformation or failure to fully comply • programmatic relief, ENTER "N/A".
12B	For: • finality rule, enter the amount that should have been paid if the error had not occurred • misaction/misinformation or failure to fully comply, enter the correct amount that should have been paid or should be paid if misaction/misinformation or failure to fully comply had not occurred •***--**programmatic relief, enter the amount that would have been paid if programmatic relief is not approved.**--***
12C	Enter the difference between items 12A and 12B.

FSA-321, Finality Rule and Equitable Relief (Continued)

A Completing FSA-321 (Continued)

Item	Instructions
13A and 13B	Complete for misaction/misinformation, failure to fully comply, and programmatic relief cases only. **Note:** Provide a summary for this item, but provide details as applicable in an attachment or excerpt of minutes.
***--**13C	If programmatic relief is being requested in item 5, affirm whether or not program relief requirements have been met according to individual program rules.**--***
14A	Complete for all finality rule, misaction/misinformation, failure to fully comply, and programmatic cases.
14B through 14D	The COC chairperson shall: • sign • enter title • enter applicable date of COC minutes.
15A	Complete for STC action only.
15B	Complete for SED action only.
15C through 15E	• SED shall sign for finality rule, misaction/misinformation, or failure to fully comply (see subparagraph 3 C for relief authority) • STC shall sign for misaction/misinformation or failure to fully comply **only** (see subparagraph 3 C for relief authority) • enter title and date signed.
16A through 16C	For finality rule only, enter payment number date, and amount of refund to the producer as a result of this determination. Enter information only if a refund is owed to the producer as a result of an erroneous collection of unearned benefits.
17A through 17C	For OGC concurrence on special relief approval authority only. **Note:** Enter information only if SED invokes special relief authority. Special relief applies to misaction/misinformation and failure to fully comply.
18A through 18C	For cases of DAFP approval only. **Note:** In certain cases, DAFP's signature may not be annotated on FSA-321. In that case, a memorandum will serve as evidence of DAFP's action.

B Example of FSA-321

The following is an example of FSA-321.

This form is available electronically.

FSA-321 (09-28-11) USDA-FSA	1. State Name: 41	2. County Name: 641	3. Control Number	4. Program Year: 2011
FINALITY RULE AND EQUITABLE RELIEF	5. Program: Direct and Counter Cyclical Program			6. Reference Number: FSN 2222

7. Type of Request: *(Choose one below):*
Finality Rule ☐ Misaction/Misinformation ☒ Failure to Fully Comply ☐ Programmatic Relief ☐

8. Participant's Name and Address *(Including Zip Code)*
Arch Stanton
277 W Sand Hill Ct
Riverside, CA 91360-7101

9A. Fully Describe the Error
See the attached statement.

9B. Who Made the Error?
Mary Carillo

9C. Who Discovered the Error? *(OIG, COR, Producer, Etc.)*
COR

10. State the Circumstances Under Which the Discovery Was Made
COR Report August 19, 2011

11A. Finality Rule Effective Date *(MM-DD-YYYY)*

11B. Date Discovered *(MM-DD-YYYY)*
08-19-2011

12A. Incorrect Amount	12B. Correct Amount	12C. Difference Between Items 12A and 12B
$ 8,000	$ 2,000	$ 6,000

13A. For cases of misaction/misinformation or failure to fully comply, specify the action the participant took, or failed to take, as a result of misaction/misinformation that was detrimental to the participant, or how the participant otherwise failed, in good faith, to fully comply with the requirements of the program. For programmatic relief, explain how either lateness or failure to meet program requirements is not adverse to the operation or integrity of the program.
Please see attached statement.

13B. All requirements for relief have been met in accordance with 7-CP?
YES ☒ NO ☐

13C. For programmatic relief, have all program requirements been met in accordance with the program identified in Item 5?
YES ☐ NO ☐

14A. Recommendation and basis for recommendation:

14B. Signature (COC Representative)	14C. Title	14D. Date of COC Minutes *(MM-DD-YYYY)*

15A. STC Action *(Choose One)*
☐ requirements for equitable relief met; case within STC authority
☐ requirements for equitable relief met; approval by DAFP recommended
☐ requirements for relief not met

15B. SED Action *(Choose One)*
☒ relief granted under special authority, subject to OGC concurrence
☐ DAFP approval recommended
☐ finality rule applies

15C. Signature (SED or STC)	15D. Title	15E. Date *(MM-DD-YYYY)*
/s/ Mary Jones	SED	09-12-2011
16A. Payment Number	**16B. Date of Payment** *(MM-DD-YYYY)*	**16C. Amount of Refund** $

For Cases of SED Request for Special Relief Approval Authority Only

17A. OGC Signature	17B. OGC Action	17C. Date *(MM-DD-YYYY)*
/s/ John Smith	☒ Concurs ☐ Does not concur	09-12-2011

For Cases of DAFP Authority Only

18A. DAFP Signature	18B, IGC Action	18C. Date (MM-DD-YYYY)
	☐ Approve ☐ Disapprove	

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Example of Finality Rule Letter

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM SERVICE AGENCY
CASTRO COUNTY FSA OFFICE
PO BOX 667
DIMMITT TX 79027-0667
(806) 647-2153

November 1, 200X

Jim Johnson
484 NW 5TH ST
DIMMITT TX 79027-1716

Dear Mr. Johnson:

[*Describe the erroneous determination.*]

It has been determined that the finality rule applies to your application for payments under the 200X Noninsured Crop Disaster Assistance Program; therefore, you will not be required to return the erroneous payment of [*payment amount*] made on [*date*].

Sincerely,

County Executive Director

Example Format for Report of SED Special Approval Authority (PA-134R)

The following is an example format of a report of SED special approval authority.

PA-134R

State - Nebraska Report Date - June 1, 2011

County	Payment Type Per Participant	Amount of Relief Requested	Amount of Relief Approved	Basis for Relief
Lincoln	NAP	$19,000	$19,000	Misinformation/Misaction.
Lincoln	LDP	$5,000	$2,000	Failure to totally comply.

Note: This report will be submitted following the approval of each case of relief to a participant using the special relief approval authority of SED.

The following provides instructions for the report of SED special approval authority.

Item	Instructions
County	Enter the name of the administrative County Office. A separate line item shall be used for each program and for each basis for relief listed in the last column.
Payment Type Per Participant	List the program for which relief is requested on FSA-321.
Amount of Relief Requested	Enter the dollar amount of relief requested as listed on FSA-321.
Amount of Relief Approved	The amount or relief approved shall not exceed the amount requested. This figure may be zero if the request was denied.
Basis for Relief	The basis must be either misaction or misinformation, or failure to fully comply. This authority does not apply to programmatic relief. **Note:** Finality rule cases shall **not** be included. See Exhibit 12 for the annual report of finality rule cases.

Additional Clarification

- This report shall be submitted to PECD immediately upon approval of each misaction/misinformation case by SED after OGC concurrence.
- This report shall include cases documented on FSA-321 including cases where relief was disapproved by SED.
- Do **not** include finality rule cases. See Exhibit 12 for the annual report of finality rule cases.
- Do **not** include cases where the final determination was made by STC, DAFP, or NAD.

--Note:** Negative reports are **not** required.**--

Example Format for Reporting the Annual FSA-321 for Equitable Relief (PA-135P)

The following is an example for reporting the annual FSA-321 for equitable relief, which includes misaction/misinformation and failure to fully comply cases only. The report does **not** include programmatic relief.

PA-135P

State - Vermont Report Date - January 3, 2011

County	Payment Type	Number of Cases	Amount of Relief Requested	Amount of Relief Approved	Basis for Relief	Approval Authority
Addison	LDP	1	$5,000	$3,500	Failure to fully comply	SED
Addison	NAP	3	$95,000	$95,000	Misinformation	DAFP
Addison	CDP	1	$4,500	$4,500	Misinformation	STC
Bennington	CRP	1	$20,000	$20,000	Misaction	SED
Caledonia	LDP	3	$12,000	$9,000	Failure to fully comply	SED
Caledonia	LDP	1	$3,500	$3,500	Misinformation	STC
Totals		**10**	**$140,000**	**$135,500**		

Negative reports for all other counties

Example Format for Reporting the Annual FSA-321 for Equitable Relief (PA-135P) (Continued)

The following provides instructions for the annual equitable relief report.

Item	Instructions
County	Enter the name of the administrative County Office. A separate line item shall be used for each program, basis for relief, or approval authority.
Payment Type	Enter the program listed on FSA-321 applicable to the relief request.
Number of Cases	Multiple cases may be included on the same line item if the "County", "Payment Type", "Basis for Relief", and "Approval Authority" are the same.
Amount of Relief Requested	Enter the dollar amount of relief requested on FSA-321.
Amount of Relief Approved	Enter the dollar amount of relief approved on FSA-321. This amount: • shall **not** exceed the amount requested • may be zero if the request was denied.
Basis for Relief	The basis for relief shall be listed as either "Misinformation", "Misaction", or "Failure to Fully Comply". **Notes:** Finality rule cases shall **not** be included. See Exhibit 12 for the annual report of finality rule cases. Programmatic relief will **not** be reported.
Approval Authority	The approval authority shall be listed as either "STC", "SED", or "DAFP". Cases approved by NAD shall **not** be included.

Additional Clarification

- This report shall be submitted to PECD annually by January 3 for relief granted during the previous calendar year.

  Example: Relief granted during calendar year 2011 for a 2010 program applicant shall be included on the 2011 annual report.

- This report shall include cases documented on FSA-321 where relief was denied.

- Do **not** include finality rule or programmatic relief cases. See Exhibit 12 for the annual report of finality rule cases. Programmatic relief is **not** reported.

- Do **not** include cases where the final determination was made by NAD.

Example Format for Reporting the Annual FSA-321 for Finality Rule (PA-129R)

The following is an example for reporting the annual FSA-321 for finality rule only.

PA-129R

State - Vermont Report Date - January 3, 2011

County	Payment Type	Number of Cases	Amount Approved	Approval Authority
Addison	LDP	1	$19,000	SED
Addison	NAP	2	$5,500	SED
Addison	NAP	2	$65,500	DAFP
Bennington	LDP	3	$65,500	SED
Caledonia	CDP	1	$25,500	DAFP
Negative reports for all other counties				

Example Format for Reporting the Annual FSA-321 for Finality Rule (PA-129R) (Continued)

The following provides instructions for the annual finality rule report only.

Item	Instructions
County	Enter the name of the administrative County Office. A separate line item shall be used for each program or approval authority.
Payment Type	Enter the program listed on FSA-321.
Number of Cases	Multiple cases may be included on the same line item if the program and approval authority are the same. Include cases where the FSA-321 relief request was denied or partially approved.
Amount Approved	***--**Enter the dollar amount that the program participant was permitted to**--*** retain because of the finality rule.
Approval Authority	Must be either SED or DAFP. STC does **not** have finality rule approval authority. Include finality rule cases approved through NAD decisions.
Additional Clarification	
• This report shall be submitted to PECD annually by January 3 for relief granted during the previous calendar year. **Example:** Relief granted during calendar year 2011 for a 2010 program applicant shall be included on the 2011 annual report. • This report shall include all SED or DAFP finality rule decisions documented on FSA-321, including cases where the request has been denied. • This report includes cases where the finality was determined to apply during the previous calendar year. **Example:** If the finality rule is determined to apply during calendar year 2011 to a case involving a 2010 program payment, the case shall be included on the 2011 annual report.	