

**For:** State and County Offices

**Dairy Disaster Assistance Payment (DDAP-III) Program Appeal Rights Clarification**

**Approved by:** Deputy Administrator, Farm Programs



**1 Appeal Rights Clarification**

**A Background**

Notice LD-600 informed State and County Offices to provide appeal rights in a payment denial notification letter only for FSA-747's:

- with calculated COC adjustments to qualifying losses
- disapprovals.

Notice LD-601 informed State and County Offices to provide payment denial notification letters to DDAP-III program participants who met all eligibility requirements, but who will not receive DDAP-III payments because of any of the following circumstances:

- their FSA-747 resulted in a negative or zero production loss
- production value exceeded 95 percent of the expected production for the disaster period
- their calculated loss was equal to or less than 20 percent.

It has since been determined that these circumstances are considered adverse decisions to individual program participants. As provided in 1-APP, an adverse decision is a decision made by an officer, employee, or committee that is adverse to a participant. Under law and regulation, FSA is required to notify participants of adverse decisions.

**B Purpose**

This notice provides State and County Offices with a clarification of policy about appropriate appeal rights for DDAP-III program participants receiving an adverse decision.

<b>Disposal Date</b>	<b>Distribution</b>
January 1, 2009	State Offices; State Offices relay to County Offices

## Notice LD-602

### 1 Appeal Rights Clarification (Continued)

#### C Required Action

In all DDAP-III payment denial notification letters, County Offices shall:

- provide appropriate appeal rights according to 1-APP
- specifically refer to 1-APP:
  - paragraph 12 for FSA policy about required elements of an adverse decision letter
  - Exhibit 8 for an example of an initial determination letter.

DDAP-III payment denial notification letters **must** be issued with 30 calendar days of this notice.

#### D Contacts

State Offices shall direct questions about this notice to either of the following.

Name	Telephone Number	E-Mail Address
Dani Cooke	202-720-1919	<a href="mailto:danielle.cooke@wdc.usda.gov">danielle.cooke@wdc.usda.gov</a>
Elizabeth Miller	202-690-8038	<a href="mailto:elizabeth.miller@wdc.usda.gov">elizabeth.miller@wdc.usda.gov</a>

**Note:** Direct questions about the appeal process to the Appeals and Litigation Staff (ALS) at 202-690-3297.