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

Notice SP-35

For: State and County Offices

TAA Provisions Explained and Instructions for Resolving Payment Problems

Approved by: Deputy Administrator, Farm Programs

1 Overview

A Background

A number of recently-announced provisions have raised questions about implementing TAA provisions under various circumstances. SP notices have not always provided sufficient explanations about all differences between TAA petitions.

A number of approved TAA applications from petitions announced over a year ago have not been paid. Some of these disbursement delays have occurred due to confusion about the payment process. County Offices must resolve these outstanding payment problems without further delay.

Many TAA applications sent to FAS (because County Offices cannot approve such applications) were not entered into application software before being sent to FAS. Most TAA applications that cannot be approved by FSA must still be entered into the TAA application software.

B Purpose

This notice:

- provides additional explanations and policy for recent TAA petition announcements
- directs State and County offices to disburse all TAA payments payable from FY 2004 funds **no later than February 28, 2005**
- provides additional information about resolving payment problems using the "alternative payment process"
- reminds County Offices that all TAA applications submitted with production evidence must be entered into application software regardless of whether the application can be approved for payment.

Disposal Date	Distribution
December 1, 2005	State Offices; State Offices relay to County Offices

2 Policy Explanations

A Catfish Petition Not Re-certified

The TAA catfish petition that had been certified for the 2002 marketing year has not been re-certified for the 2003 marketing year. An analysis of market prices indicated that catfish prices did not decline sufficiently from the base-period price average to meet the requirements for re-certification. Consequently, FSA offices will not be administering TAA for catfish under the 18-State petition certified for the 2002 crop.

It is possible that a different catfish petition may be filed for the 2003 marketing year for one or more States. Petitioners have until January 31, 2005, to submit new petitions to FAS for consideration under this current cycle.

B CSREES Training Deadlines and Documentation Deadline

FAS' policy is to provide technical training only during a 180-calendar-day (6-month) period that begins the first day of the producer's application period under each petition. This training availability policy is acceptable to CSREES because of administrative and budgetary constraints. CSREES cannot afford to provide one-on-one training, as a general practice.

CSREES may request extensions beyond the 6-month period when special circumstances occur. This year, CSREES requested and was provided a 60-calendar-day extension for providing training under the 2003 marketing year Alaska salmon petition. The training period for that petition is 8 months, from October 15, 2004, through June 15, 2005. These dates were announced in the Federal Register notice. This extension applies to all applicants under the 2003 marketing year petitions **regardless of their State of residence**.

As of the issuance of this notice, CSREES has not requested training-period extensions for other re-certified petitions. Thus, the training availability period is 6 months for all other FY 2005 petitions announced as of the date of this notice.

Regardless of the length of the training-availability period, applicants under all petitions must submit documentation of training to FSA no later than September 30, 2005. This uniform deadline applies whether the applicant submits a CSREES certificate of training (1-SP, Exhibit 5) or a letter stating that no training was required.

2 Policy Explanations (Continued)

C FAS Disapproval Letter Re-designated

The FAS Disapproval Letter in Notice SP-31, Exhibit 2, has been revised and re-designated as FAS-931. FSA will not obsolete Notice SP-31 although it refers to this form by its original designation as the "FAS Disapproval Letter".

You may access FAS-931 at **http://intranet.fsa.usda.gov** by selecting the forms number search. This forms site does not automatically update itself from the screen previously viewed by the user. Thus, to access a new form on this site, it is recommended that users first select "tools, internet options, and delete files" to ensure the site shows the most recent version of forms.

D Determining the Years for Net-Income Comparisons

A TAA petition may have several different years associated with it. For the purposes of the net-income eligibility requirement, the comparison made is between incomes of the tax year associated with:

- the marketing year of the petition
- the pre-adjustment year of the petition.

Marketing Year. Petitions are submitted to FAS requesting benefits based on the marketing year specified by the petitioner. The "marketing year" specified by the applicant **may be other than, or less than, an ordinary January-December calendar year.** Still, virtually all petitions have established a marketing year that is a 12-month calendar year.

At any point in time, TAA petitions may not necessarily all be based on the same marketing year. For example, Florida shrimp and lychee petitions started with the 2003 marketing year and all others began with 2002. The lychee marketing period was less than 12 months.

Pre-adjustment Year. FAS defines the "pre-adjustment year" as the last year of the 5-year base period used for calculating the petition's historical average price. For purposes of net-income comparisons, the pre-adjustment year is the individual applicant's tax year associated with the last marketing year of the 5-year base period. This definition is included in 1-SP, Exhibit 2.

Associated Tax Year. Although individuals and businesses generally file tax returns based on a calendar year, they may also establish a different 12-month tax year suitable to their needs. FSA uses the tax returns for the year most closely associated with either the marketing year of the petition or the pre-adjustment year of the petition.

2 Policy Explanations (Continued)

E Net Income Comparisons Under Special Circumstances

TAA applicants must provide documentation that their net income from farming or fishing for the tax year associated with the petition was less than net income for the tax year associated with their pre-adjustment year. However, the following producer circumstances require further comment.

- A producer lost money in both years and documentation indicates negative income for both years. To be eligible for a cash TAA payment, the applicant must have lost more money in the tax year associated with the petition than was lost in the tax year associated with the pre-adjustment year.

- A producer did not fish or farm during the pre-adjustment year. Such producer can document zero income from farming or fishing for the pre-adjustment year by presenting tax records, or other documentation from an attorney or CPA, that indicate no farm or fishing income. To qualify for a TAA cash payment for the petition marketing year, the producer would need to document that net income from farming or fishing was less than zero for the tax year associated with the petition marketing year.

- A producer had net income during the pre-adjustment year but had no production from farming or fishing in the petition payment year. Such producers may apply to receive CSREES technical assistance. Because they do not have production, they are ineligible for a TAA payment. Such producers are required to document:

  - zero income from farming or fishing for the tax year associated with the petition marketing year

  - evidence of production from the year immediately preceding the petition marketing year. This year may be different from the pre-adjustment year. This production evidence is required not for payment computation but to ensure that only applicants who were bonified farmers or fishermen.

2 Policy Explanations (Continued)

F Documenting Net Income From Separate Commodities or Fish Species

Regulations provide that net income from farming or fishing is to be documented using tax returns or supporting documentation provided by an attorney or CPA. Questions arise as to what documentation may be used in situations where an applicant's net income is derived from multiple commodities of which only one is eligible for TAA.

IRS instructions provide that, generally, only one Schedule C or F is to be filed per business or individual. Farmers and fishermen are instructed to file one Schedule, thereby reporting one net income from all combined crops or species. However, an individual may file both Schedule C and Schedule F, or multiples or either, if he or she happens to have more than one business. Under these circumstances, it may be that the net income from one particular commodity is reported separately from the net income derived from a separate commodity.

The documentation provided by an applicant for TAA eligibility must be consistent with IRS filing instructions. Therefore, any separation of income provided by a CPA or attorney must have been submitted to IRS in support of an original or amended tax return and reflect normal tax reporting procedure. It is not acceptable for a farmer or fisherman to have a CPA or attorney create tax records that are inconsistent with IRS filing procedures for the sole purpose of establishing eligibility for TAA.

1-SP, subparagraph 54 B will be amended to clarify acceptable net-income documentation. In the case of fishermen who derive income from multiple species and only one is an approved species for TAA, when:

- income from all species is combined and net income from 1 species is not separately reported on tax records, use the combined net income from fishing as reported to IRS

- net income from separate species was reported to IRS on either an original or amended tax return consistent with IRS filing requirements, use the net income from the approved species.

G Mailing of FSA-229's

1-SP instructs County Offices to use commercial delivery services and not the United States Postal Service for sending FSA-229's to FAS. The reason for this is that regular and certified mail is irradiated before delivery to the National Office because of security concerns. The irradiation process may partially destroy documents, making them unusable if needed by FAS for processing appeals.

2 Policy Explanations (Continued)

H Request for Refunds of TAA Overpayments

OGC has determined that any request to a producer for a refund of TAA cash payments is an adverse determination. Therefore, such requests for refunds must be made by FAS with the producer notified of the same appeal process as applies to other adverse determinations under TAA. The FAS letter, to be mailed when appropriate by FSA, will be included in an amendment to 1-SP.

I Deadline for Processing FY 2004 Payments

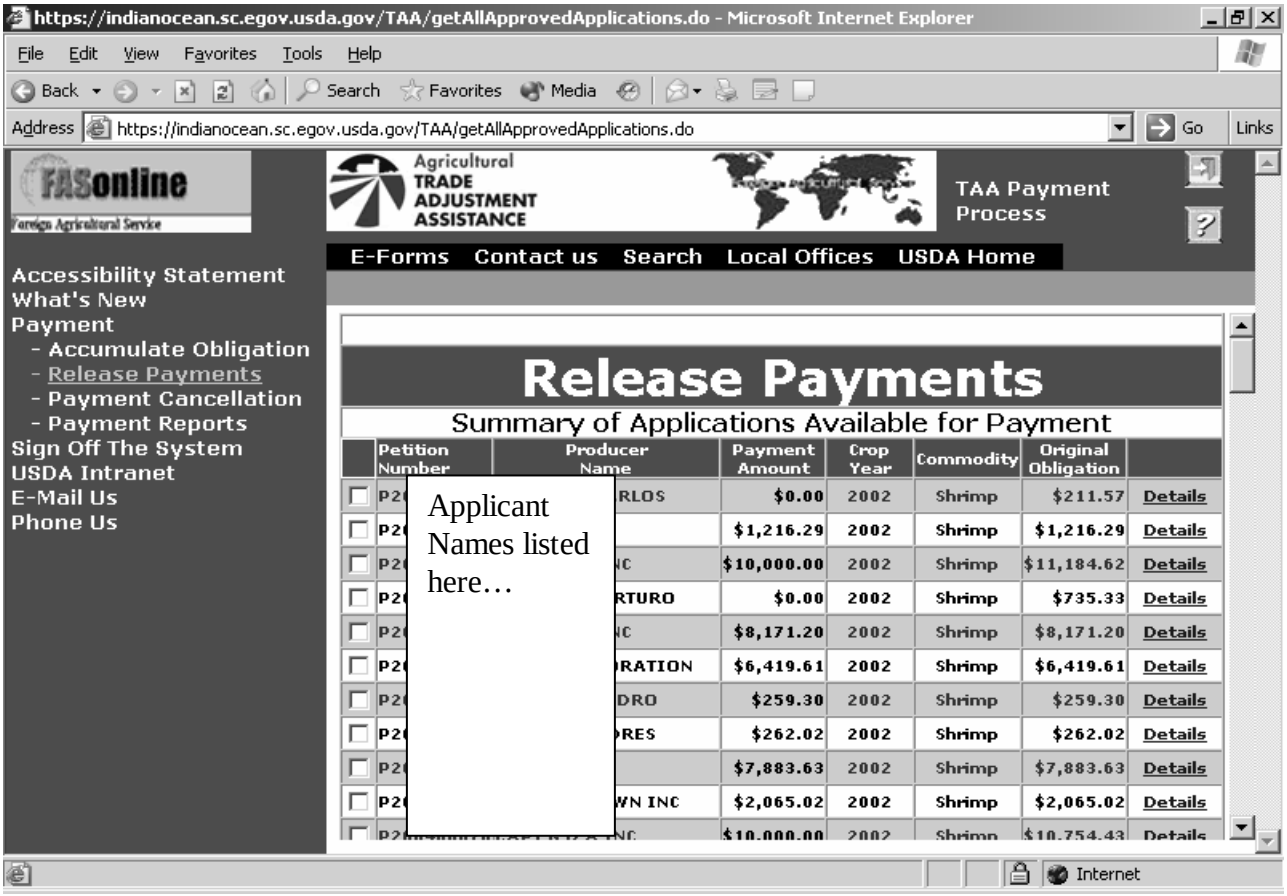
All TAA applications to be paid from FY 2004 funds, including includes all 2002 marketing year applications and the 2003 marketing year applications for Florida lychees and shrimp, that have been approved for payment shall be paid no later than February 28, 2005. State Offices shall inform PSD if any of the approved applications cannot be paid by this deadline.

3 Eligibility Problems

A Setting Eligibility Flags

If a County Office has not set all the eligibility flags for an applicant or the flags are not set correctly, the payment on their TAA application will be reduced to zero. Applications with zero payment can be identified by having a zero under the "Payment Amount" column (see Figure 1).

Figure 1 – TAA Payment Listing



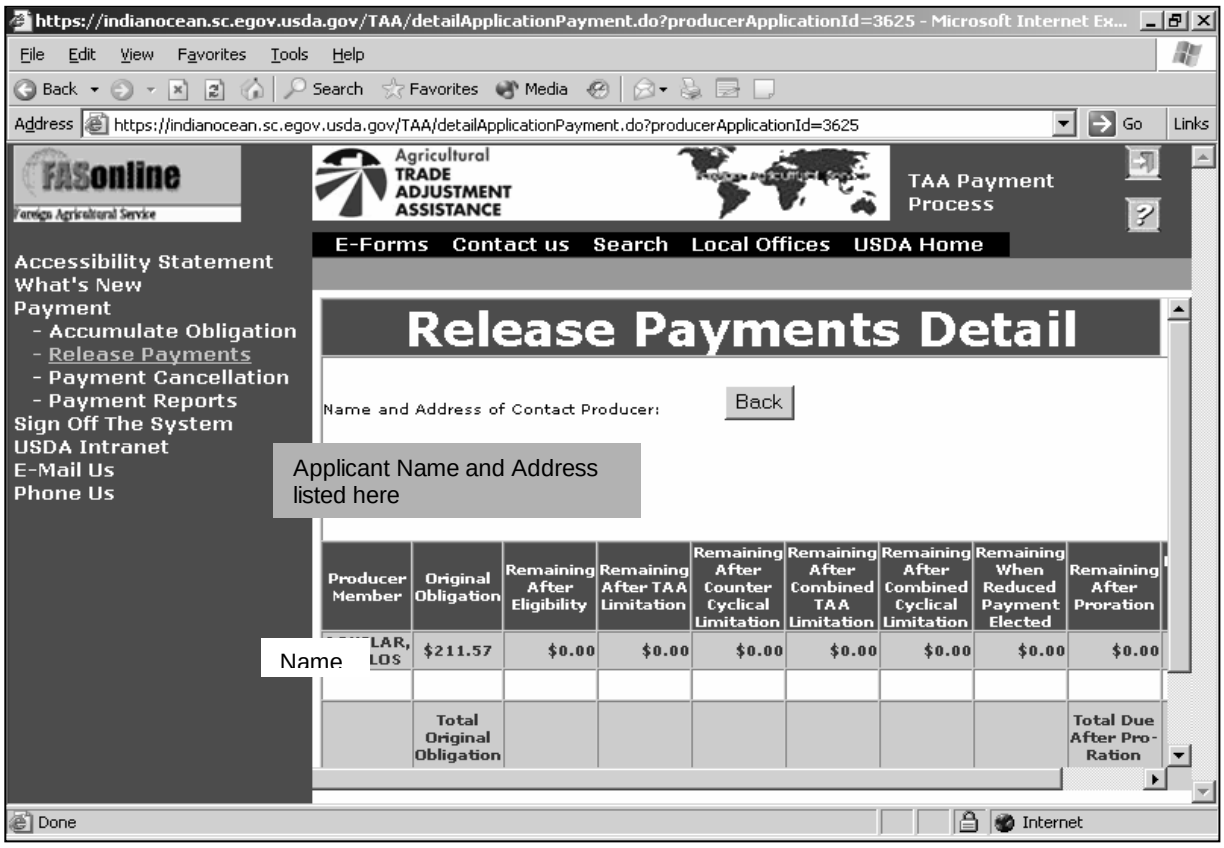
3 Eligibility Problems (Continued)

A Setting Eligibility Flags (Continued)

While viewing the list of applicants (see Figure 1), click "Details" which will display a new page with the payment breakdown (see Figure 2). If there is a zero value under the "Remaining After Eligibility" column, then there is a problem with the producer's eligibility. If this occurs, contact the help desk at 1-800-255-2434, extension 1. They can assist you to fix the appropriate flags. Once the changes have been made, the amounts should be updated within 24 hours. If not, call the help desk again and they will investigate the problem further.

Note: Counties can only "view details" for a payment when processing as in Figure 1. Do **not** "√" the producer to process if the payment displays $0.00 in the "Remaining After Eligibility" column. You **must** go back and correct the eligibility record.

Figure 2 – TAA Payment Details



4 e-Funds Issues

A Allocating Payment Funds Under e-Funds Control

Once TAA payments have been submitted to the System 36, disbursements cannot occur until funds have been passed through the funds-control process to a County Office. The System 36 will signal that County Office-level funds are insufficient by a message stating that there is an accounting error. For sufficient funds to be allocated, State Offices shall request e-funds for TAA in a County Office by sending an e-mail to **stacy.carroll@wdc.usda.gov** that identifies the following:

- program for which funds needed (e.g., TAA or MILC)
- amount of e-funds requested
- State and county codes.

After an e-mail confirmation is sent to the State Office, the accounting error message will not appear on the System 36 and funds will be available to disburse by the County Office.

5 Entering Applications into TAA Software

A General Policy

As a general policy, all FSA-229's received, including those that may be disapproved, must be entered into the application software according to 1-SP, subparagraph 71 C. This must occur for both FSA and CSREES to have a reliable mailing list of potential program applicants for subsequent years.

The only exception to this general policy is that applications submitted without production evidence within the application period are invalid and should not be entered. Only applicants that provide production evidence are eligible for CSREES technical training at no cost. The deletion of these invalid applications from the application software saves CSREES the trouble of inadvertently contacting them about this training.

County Offices shall not wait for other supporting documentation to be received before initially entering the application into TAA database. Name/address and production information from the FSA-229 must be entered into software no later than 15 days following the end of the application period.

5 Entering Applications into TAA Software (Continued)

B New Eligibility-File Process

The new web-based eligibility file system (deployed in January 2005):

- disabled the software to update eligibility data in the System 36
- provides the ability to:
  - view eligibility data downloaded to the System 36 through the web-based process
  - print the MABDIG Report for the producer
- rejected or set as ineligible some TAA some eligibility records (those that were incomplete or did not specify farm tracts)
- no longer requires that an applicant with no interest in land be assigned to a generic farm number (such as fishermen with no interest in land) as provided by instructions in 1-SP, subparagraph 71 A.

  Note: 1-SP will be amended in a future amendment to delete this requirement.

C Establish or Check Eligibility Records

For TAA applications payable from FY 2004 funds where the TAA web-based software reduces the payment to zero, County Offices shall review and update all eligibility data that may have been improperly recorded or converted during the migration process according to 3-PL and Notice PL-130. Once the record on the mainframe is up-to-date, the software will normally allow the payment to continue processing.

County Offices are advised that processing TAA payments may be delayed because of the interaction between the web server and mainframe files. This occurs because TAA payment software uses mainframe files to determine eligibility and these files are updated by the web server every Monday and Thursday.