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

Crop Assistance Program 1-CAP	Amendment 3

Approved by: Acting Deputy Administrator, Farm Programs

Amendment Transmittal

A Reasons for Amendment

The following are being amended for the reasons indicated:

Paragraph 7 has been amended to clarify how appeals procedures apply to FSA decisions on applications.

Subparagraph 21 A has been amended to clarify that Federal, State, and local governments, including public schools, are ineligible for CAP.

Subparagraph 22 E has been amended to provide instructions on calculating manual share for FSA-860.

Subparagraph 76 B has been amended to clarify prevented planted acreage eligibility.

Subparagraph 78 A has been amended to clarify the limitation on counties, shares, and acreage.

Subparagraph 111 D has been amended to correct the rice grade for the proper discount from 2-LP.

Subparagraph 141 B has been amended to provide clarification on processing approved FSA-860's that do not have supporting payment eligibility forms.

Subparagraph 141 D has been added to provide guidance and instructions on late filed FSA-860's.

Subparagraph:

- 142 C has been amended to clarify the exception for adding crop acreage because of differences in FSA-578

- 142 E has been amended to provide guidance on processing FSA-860's that may have some crops or farms without clear certification.

Amendment Transmittal (Continued)

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D Notifications

State and County Office shall use the lists in subparagraphs B and C to assist in ensuring that information is disseminated to all producers. CAP information must be publicized by mailings; meetings shall be held when possible and where feasible. When preparing to speak to groups, consider a location accessible and preferable for the group.

State and County Offices shall ensure that minority members and advisers are:

- fully informed on CAP matters
- fully used for input of minority needs and contacts
- requested to speak to minority groups or to accompany CED, DD, or officials when speaking to minority groups.

E Documentation

Extensive documentation of outreach efforts is **required**. STC shall document specific guidance given to County Offices and efforts made at the State level about outreach activity.

COC shall document efforts made at the county level, whether performed singularly or along with the County Office with the minority adviser, DD, or State outreach coordinator.

A copy of the following shall be included in the primary CAP file (for instance, the "CAP Program" file):

- all letters, notices, news articles, radio programs, and county or ethnic group meeting and attendance data
- documentation by COC or STC that **must** include whether the effort is considered a minority or under-served/under-represented contact.

File copies of notifications of minority advisers, etc., about outreach activity in file OUTR 5, "Notifications", according to 25-AS, Exhibit 51.6.

7 FSA Determination Appeals

A Producer Rights on Appealable Determinations

--**Participants have the right to appeal following FSA decisions on FSA-860's, when there is**--
a question of fact or a factual dispute, for example, a dispute or question about the accuracy of share, acres, etc., or an assertion about correctly applying a rule, regulation, or generally applicable provision to a set of facts.

See 1-APP for appealable determinations.

B Nonappealable Determinations

Generally applicable provisions are **not** appealable according to 1-APP, including but **not** limited to the following:

- eligibility conditions or criteria
- eligible disaster counties
- the cut-off date of October 22, 2010, for 2009 crop acreage to be reflected on FSA-578

  Note: COC shall **not** consider or make any determination whatsoever, including considering or recommending relief on any question or assertion on acreage not appearing on FSA-578 as of October 22, 2010. See paragraph 78.

- signature requirements
- CAP payment rates
- payment calculations.

--**Cases involving FSA decisions on FSA-860's that have no disputes of fact are **not--
appealable. See 1-APP for nonappealable matters.

*--C Letters to Producers Advising of Results of Office Determinations

County Offices will issue a letter to participants about the result of processing FSA-860's when a payment is either not computed or determined not to be owed to the participant. Such a decision will be considered to be a decision of a COC employee. See 1-APP, paragraph 13 and Exhibit 8, Example 2, "COC Employee Determination".**--***

7 FSA Determination Appeals (Continued)

*--C Letters to Producers Advising of Results of Office Determinations (Continued)

The following is an example of a letter advising a participant that a payment was not computed, or will **not** be issued, in response to FSA-860.

Date:

Mr. Arch Stanton
3 Littleton Rd
Somewhere OH 12345-9876

Dear Mr. Stanton:

This letter is in response to your application for payment (your FSA-860) under the Crop Assistance Program (CAP), for farm number(s) 0.

You submitted a CAP application for 2009 losses. FSA processed that application and determined you were not due a payment under that application. Accordingly, a payment will not be issued.

If you believe we have not properly reviewed and processed your application, you may appeal this determination to the county committee by filing a written request no later than 30 calendar days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you appeal to the county committee, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you appeal this determination to the county committee; you may later appeal any adverse determination of the county committee to the FSA State committee or the National Appeals Division. To appeal, write to the county committee at the following address and explain why you believe this determination is erroneous.

Somewhere County FSA Committee
55 Main St
Somewhereville, OH 12346-6543

If you do not timely file an appeal of this determination, this shall be the final administrative determination with respect to this matter in accordance with regulations at 7 CFR 780.

Sincerely,

Sharina Farmer
County Executive Director

--*

7 FSA Determination Appeals (Continued)

*--D Letters to Producers of Nonappealable Determinations

Letters notifying participants that a decision is not appealable must clearly explain to the participant the reasons that the decision is not appealable.

Note: Avoid using general and vague statements that do not sufficiently demonstrate the reasons that a decision is not appealable. Participants may request that SED or NAD Director review FSA's determination that an adverse decision is not appealable.**--***

Part 2 Eligibility

21 Eligible Producers

A Definition of Eligible Producer

--[7 CFR 760.703]** An eligible producer is an individual or legal entity that meets the requirements of 7 CFR 760.703 and is entitled to an ownership share interest, production,**-- and market risk associated with the agricultural production of crops on the farm and is any of the following:

- United States citizen
- lawful alien possessing a valid I-551
- partnership of citizens of the United States
- corporation, limited liability corporation, or other farm organizational structure organized under State law.

Notes: Landowners, landlords, tenants, contract growers, or anyone else not having both an ownership share of a crop and share of the risk are ineligible for CAP assistance for that crop.

--**Federal, State, and local governments, including public schools, do **not** meet 7 CFR 760.703 eligible producer criteria and are; therefore, **ineligible** for CAP.**--

Producers filing FSA-860 self-certify that they are eligible. That certification is subject to spot check.

B Verifying Producer Eligibility

CAP is based on a self-certification of the producer. The certification statement is pre-printed on FSA-860.

In the event that FSA or COC deem it necessary or if FSA-860 is selected for spot check, COC shall verify that the producer is eligible for CAP. The producer must be able to show, with verifiable evidence, that the producer had a valid ownership share interest in the commodity produced and control of the crop acreage on which the commodity was grown at the time of the disaster. For participants producing a crop under a grower's contract or a Community Supported Agriculture Agreement, a copy of the contract or agreement shall be provided. For crops not grown under a contract, 1 or more of the following shall be obtained as determined by COC:

- copies of signed written leases or written agreements
- copies of signed rental agreements
- copies of other legal documents showing land ownership or control

21 Eligible Producers (Continued)

B Verifying Producer Eligibility (Continued)

- statement signed by landowner that producer had control of the acreage

- statement signed by operator or producer that producer had control of the acreage on a farm.

Notes: FSA-578 producer print will suffice. CCC-902 is **not** acceptable as verifiable evidence.

--**Verifications do **not** need to be performed before processing applications unless FSA or COC deem it necessary.**--

C Deceased, Missing, or Incompetent Producers and Dissolved Entities

Authority to sign contracts, applications, and other documents on behalf of deceased, missing, or incompetent producers may vary according to State law. If an eligible producer is now deceased or a dissolved entity, then an authorized representative of the deceased producer or dissolved entity may sign FSA-860, provided that the authorized representative has authority to enter into a contract for the deceased producer or dissolved entity.

Important: Proof of authority to sign **must** be on file in the County Office **before** the representative is allowed to sign FSA-860 requesting CAP benefits for the producer. Proof of authority includes any of the following:

- court order
- letter from Secretary of State
- document approved by OGC regional attorney.

Use FSA-325 **only** when it is requested that CAP payments earned by a deceased, missing, or incompetent CAP participant be issued in a name other than that of the deceased, disappeared, or declared incompetent CAP participant. CAP payments shall be issued to the respective qualified claimant's names using the deceased, missing, or incompetent CAP participant's TIN. State Office shall consult with the OGC regional attorney on the following types of cases:

- documentation submitted does not clearly establish authority to enter into a contract or application on behalf of the deceased individual, closed estate, or dissolved entity

- FSA-860 and request for issuing CAP payments to heirs of a deceased individual without documentation provided that establishes authority to enter into a contract or application on behalf of the deceased individual.

22 Crop and Acreage Eligibility

A Definition of Farm

Farm means, for determining CAP eligibility, the FSA FSN. Any FSN with eligible crop acreage in a tract or tracts located in an eligible disaster county shall be considered eligible as along as all other eligibility requirements are met.

Note: Producers interested in filing FSA-860's must do so in the 2009 administrative county for their FSN. However, eligible crop acreage for the producer on that FSN is limited to the eligible crop acreage present in a disaster county or counties. If 50 percent or more of a tract's acreage physically resides in the disaster county, the tract will be considered in the disaster county for CAP purposes.

B Definition of Crop

Crop means all acres based on crop, type, and IU.

C Definition of Eligible Crops

Eligible crops mean the reported or determined 2009 crop year planted or considered planted acreage of long grain rice, medium or short grain rice, upland cotton, soybean, or sweet potato crop acreage for a producer on a farm in an eligible disaster county as reflected on 2009 crop year FSA-578 as of October 22, 2010.

Note: FSA-770 CAP, item 10 requires verifying that eligible crop acreage be limited to that shown on FSA-578 as of COB October 22, 2010.

D Late-Filed FSA-578's

Late-filed FSA-578's, including FSA-578's filed according to 2-CP, subparagraph 21 A, will **not** be accepted for CAP purposes after October 22, 2010.

E Revised FSA-860's for Share Errors

Revised FSA-578's, including FSA-578's revised according to 2-CP, subparagraph 22 B will **not** be accepted for CAP purposes.

22 Crop and Acreage Eligibility (Continued)

E Revised FSA-860's for Share Errors (Continued)

***--**A manual FSA-860 will have to be processed for producers who meet **all** of the following requirements:

- producer is on FSA-578 as of October 22, 2010, with a share greater than zero for 1 or more CAP crops
- because of error, the producer share was recorded and reported in error
- all producers who share in the CAP crop agree to the share corrections on FSA-860.

Note: If all producers who have a reported share of CAP crops on the farm do not agree with the share revisions, no action will be taken on the request for share revision.

Producers having a reported share of CAP crops greater than zero or crops that meet the requirements for revision of shares on FSA-860 will have shares calculated manually.

Example: Producer A applies for a CAP benefit on soybeans on FSN 1 in County B. There are 3 tracts on the farm all located within County B.

FSA-578 information: Tract 1 has 50 acres of soybeans with 1.000 share to Producer A. Tract 2 has 100 acres of soybeans with .2500 share to Producer A and .7500 share to Producer C. Tract 3 has 150 acres of soybeans with .7500 share to producer A and .2500 share to Producer D.

The excel FSA-860 for Producer A has 300 acres of soybeans with a share of .6250. In reviewing the FSA-578 information used to generate the excel FSA-860, Producer A reported that the shares were incorrectly recorded on Tract 2. The correct share should have been .7500 to Producer A and .2500 to Producer C. The correct weighted share will be calculated manually:

Tract 1 – 50 acres x 1.0 = 50.0 acres
Tract 2 – 100 acres x .75 = 75.0 acres (Producer A and Producer C must initial here)
Tract 3 – 150 acres x .75 = 112.5 acres
237.5 acres/300 acres = .7917**--***

22 Crop and Acreage Eligibility (Continued)

E Revised FSA-860's for Share Errors (Continued)

***--**Provided that Producers A and C agree in writing, then Producer A's FSA-860 will be corrected manually by lining through .6250 and replacing with the manually calculated share of .7917. The CAP benefit for FSN 1 will be recalculated manually. Both Producer A and Producer C must initial the manual share calculation for Tract 2. Producer A must also initial the corrected manual share on FSA-860.

Producer C applies for CAP in County B on FSN 1 but has Tract 2 (100 acres of soybeans) as the only CAP eligible crop on excel FSA-860. A manual share calculation is not required. However a manual FSA-860 will be generated by lining through the .7500 share and inserting the correct .2500 share. The CAP benefit will need to be calculated manually and both Producer A and Producer C must initial the corrected share on the FSA-860.

Both producer shares on these applications **must** be recalculated if both producers apply for CAP. Producers **cannot** change 1 share and not the other. In the example provided, both Producer A and Producer C **must** have their shares corrected. Producer A and Producer C are not required to apply for payment; however, each may do so only with correct shares.**--***

23 Eligible Disaster as Cause of Loss

A Definition of Eligible Disaster

Eligible disaster is a producer's loss of an eligible crop on a farm in a disaster county because of disaster as specified in 7 CFR Part 760, Subpart H as excessive moisture or related condition, including flood, flash flooding, excessive rain, moisture, humidity, severe storms, thunderstorms, ground saturation or standing water, hail, winter storms, ice storms, snow, blizzard, hurricane, typhoons, tropical storms, or cold wet weather.

24 Disaster County

A Disaster County Eligibility

CAP is available only to an eligible producer of eligible crop acreage on farms in a disaster county. Disaster counties are described in subparagraph 1 B.

A list of disaster counties is available at **http://www.disaster.fsa.usda.gov**.

25-45 (Reserved)

Part 4 Eligible Acreage

76 Acres Eligible for CAP

A Definition of CAP Acreage

CAP acreage is the reported or determined 2009 crop year acreage of an eligible crop on a farm or tract in a disaster county.

B Determining Eligible Acreage

Eligible acreage is determined on a crop-by-crop basis using the definition of eligible crop in subparagraph 22 C. Eligible crop acreage must be initial crop long grain rice, medium or short grain rice, upland cotton, soybeans, or sweet potatoes that are planted and considered planted as reflected on FSA-578 as of October 22, 2010.

--**Eligible acreage for CAP will be based on the crop acreage planted or prevented planted to**--
an eligible CAP crop in a disaster county. Subsequently planted or subsequently prevented planted acreage is eligible for CAP **only** if the subsequently planted or prevented planted crop acreage meets **double-cropping rules** according to 2-CP.

77 Considered Planted Acres

A Prevented Planting Eligibility

Only those acres of an eligible crop where an approved CCC-576 is on file, according to 2-CP, paragraph 24, and the acres are recorded in a disaster county on FSA-578 as of October 22, 2010, will be eligible for CAP.

Note: There are **no** provisions for revising 2009 crop year acreage reports to increase planted and considered planted acreage for CAP.

--78 Limitation on Counties, Shares, and Acreage Imposed by Program Authorization--

A FSA-578 and CAP Acreage

The regulation announcing CAP specifically stated that the disaster counties and eligible crop acreage cannot be increased after October 22, 2010. The amount of acreage for each crop that will be used to determine CAP payment acres and the producer's ownership share of the crop is based on the 2009 crop year FSA-578 that is on file with FSA as of October 22, 2010.

The regulations specifically stated that for the purposes of CAP, a producer cannot revise a crop acreage report for the 2009 crop year (such reports are filed using FSA-578) to increase the payment or to create an eligibility. This is because the counties and acreage that existed on the database as of October 22, 2010, were used by FSA to determine payment rates and maximum extent of CAP.

If a producer needs to amend or correct 2009 FSA-578 for other programs, the producer may be able to do so under the rules for that other program and only for that other program. *--However, no amended 2009 FSA-578 that includes increased crop acreage or shares of producers who as of October 22, 2010, were **not** shown on FSA-578 with a share greater than zero on a farm, will be considered in calculating CAP payments. Likewise, producers are **not** entitled to any sort of decision, relief, or other consideration on any request to increase crop acreage or to add a producer or share of a CAP crop to FSA-578.

For CAP, FSA offices and committees will **not** do any of the following:

- consider or render any sort of adverse decision or relief decision on acres, tax ID's, or shares **not** included on FSA-578 as of October 22, 2010, regardless of whatever reason those acres, tax ID's, or shares are **not** shown on FSA-578

- forward any sort of recommendation of relief for inclusion of acres, shares, producers, or counties for CAP

- provide any right of appeal or appealability to anyone making an inquiry about eligible acres, shares, or counties because the eligible disaster counties, shares, and acres are conditions of eligibility or parameter of CAP as provided in 7 CFR Part 760, Subpart H, published in FR on October 25, 2010, and effective October 22, 2010.

  Note: Producers have a right of review or appeal on any adverse decision on FSA-860, **not** FSA-578, where there are legitimate disputes of fact. See paragraph 7 and 1-APP.**--***

79-110 (Reserved)

111 Qualifying Loss (Continued)

C Loss of Production Because of Quality

The 5 percent or greater loss can be certified that it was met from a loss of production because of quality conditions from a disaster that caused a reduction in production. All 4 eligible CAP crops are eligible for quality conditions.

Verifiable production records must exist for a producer to certify that the loss of production was because of quality. Quality affected production will be determined at the level in which these verifiable records exist (bale, truckload, bin etc). Producers that certify to the 5 percent loss of production because of quality do so for all eligible crop acreage on the farm. If verifiable records for quality documentation only exist for part of the crop the loss certification because of quality will still be considered valid as long as on average the crop suffered 5 percent or greater loss.

Note: Crops with a final use of left standing or crops that are unharvested are not eligible for a production loss because of quality unless they are partial acres and verifiable evidence exists on the rest of the production from harvested acres to support on average a 5 percent or greater loss because of quality on all of the acres.

Example: Producer Z applies for CAP because of quality loss on 20 acres of soybeans for grain on farm 2 with a 100 percent share. Producer Z has verifiable production evidence that 800 bu. of soybeans were produced. However, the verifiable evidence shows that the quality affected production was 10 percent on only 400 bu. (400 bu. x .10 = 40 bu. loss). There is not any quality evidence for the remaining production. It is determined that Producer Z meets the 5 percent loss because of quality because, on average, the CAP crop acres on the farm suffered a 5 percent or greater quality loss. (800 bu. x .05 = 40 bu. loss)

111 Qualifying Loss (Continued)

D Quality for Rice, Cotton, and Soybeans

Quality adjustment factors and methodology found in 7-CN or 2-LP to calculate quality losses for upland cotton, rice, and soybeans with a final use of lint grain or seed will be used by FSA to determine if the 5 percent or greater loss threshold was met. The methodology will apply regardless of whether the producer put the crop under loan. If evidence shows that the producer loan rate would be reduced 5 percent or greater because of quality as compared to the county loan rate, the producer's crop will be considered to have satisfied the loss threshold for CAP.

Example: Producer C produces long grain rice in County D on farm 3 with a 100 percent share. The FSA-578 acres reflect 50 acres of long grain rice. Producer C supplies *--verifiable production evidence that Producer C harvested 340,000 lbs. (3,400 cwt.) of rice on the 50 acres. The evidence also provides that the entire crop graded at U.S. No. 4 because of quality conditions. County D has a loan rate of $9.94 per cwt. for long grain rice. The discounted loan rate for U.S. No. 4 grade is $0.60 per cwt.

$9.94 - $0.60 = $9.34
$9.34/$9.94 = .939; 1 - .939 = .061
.061 x 100 percent = 6.1 percent--*

Producer C had a 6.1 percent loss of production because of quality.

E Quality Sweet Potatoes

Sweet potatoes are considered a multi-marketed crop. The following must be present for fresh and processed sweet potatoes to be eligible for quality loss:

- actual prices received by the producer, separated by fresh and processed markets
- STC market price for each applicable market based on market prices for unaffected production at the time of harvest for both fresh and processed markets
- verifiable evidence of the quality loss because of an eligible disaster condition.

Part 6 Applying for CAP Benefits

141 Applying for Benefits

A Required Forms

In addition to FSA-860, producers applying for CAP benefits must either file or have the following on file:

- CCC-902
- CCC-926
- AD-1026
- FSA-578.

--**FSA-578 must be on file for every producer's crop acreage as of October 22, 2010. Revisions occurring after October 22, 2010, **cannot** be performed to increase acreage for**-- CAP payments. All other supporting documentation in this subparagraph must be received in the applicable County Office before issuance of the CAP payment.

B Signing and Certifying FSA-860

Producers interested in CAP must file an application during the signup period beginning October 25, 2010, through December 9, 2010. By signing FSA-860, item 14A, the applicant is:

- applying for CAP benefits for the producer listed on FSA-860, item 3
- certifying all of the following:
  - information provided on FSA-860 is true and correct
  - that the participant suffered a 5 percent or greater loss on eligible acres in the disaster county because of excess moisture or related condition for each crop and farm for which there is a claim for payment
  - the loss was because of excessive moisture or related condition, or disaster as specified in this handbook and 7 CFR Part 760.702
  - the acres affected were physically located in a primary county for which a secretarial disaster designation was approved
  - the participant has documentation to support the application and will retain that documentation for 3 years after the date of this application

--Note:** If FSA-902, FSA-926, etc., are not received by December 23, 2010, to allow payment eligibility decisions to be made on approved FSA-860's, payment action cannot be taken. Producers not submitting supporting forms are at risk because funds for CAP will be terminated at the conclusion of the program.**--

141 Applying for Benefits (Continued)

B Signing and Certifying FSA-860 (Continued)

- whether the claimed loss was because of a loss of quantity or quality for each crop on each farm in a disaster county

- that the share of the crop on FSA-860 is the producer's ownership share of the eligible crop acreage in a disaster county on a farm

  Note: If the share is incorrect, see subparagraph 22 E.

- authorizing FSA officials to request documentation to support the application for 3 years after the date of application

- acknowledging:

  - that it will be up to FSA to determine whether the documentation meets program requirements

  - that the participant will be required to refund a crop's payment with interest from date of disbursement in the event it is later determined that the producer did not suffer the claimed loss on that crop on that farm

  - all eligibility provisions, terms, and conditions of regulations governing this program at 7 CFR Part 760, Subpart H

  - that any payment made under this program will be treated as revenue under the SURE Program, 7 CFR Part 760, Subpart G.

C FSA-860 Approval or Disapproval

CAP is based on self-certification of the producer choosing to file FSA-860. COC will **not** make CAP eligibility determinations. Rather, action on FSA-860 is COC finding that the producer satisfied program requirements in filing FSA-860. All applications are subject to spot check.

The applicable COC is responsible for approving or disapproving FSA-860.

Important: FSA-860 shall be complete and contain all required information **before** requesting the producer to sign FSA-860. **No** entries shall be made on FSA-860 by FSA employees, except entries designated for COC use, **after** the producer signs FSA-860. Any additions or corrections by the producer shall be initialed and dated by producer.

141 Applying for Benefits (Continued)

C FSA-860 Approval or Disapproval (Continued)

If COC determines the applicable FSA-860 should be disapproved, County Offices shall immediately notify the producer in writing of the disapproval. The letter to the producer shall include the following:

- notification that FSA-860 was disapproved
- reason or reasons for disapproval
- applicable appeal rights according to 1-APP.

D Late-Filed FSA-860's

Neither STC nor COC has authority to approve late-filed FSA-860's.

***--** COC and STC will take no action on FSA-860's not filed by December 9, 2010, the enrollment deadline, or applicable deadline permitted using an authorized register that are not accompanied by a written statement signed by the producer explaining any of the following:

- why FSA 860 should be considered timely or why it was not filed by the deadline

- any incorrect action or advice by a specific FSA employee upon which the producer relied to the producer's detriment.

Any FSA-860 submitted **after** December 9, 2010 **must** be accompanied by an explanation from the producer before any action is taken on FSA-860. Possible action includes, but is not limited to:

- disapproving FSA-860 as simply not timely filed with no recommendation of relief

- requesting additional information from the producer

- determining that the circumstances of the case warrant consideration of relief to either STC or DAFP, as applicable.

Note: If FSA-860's submitted after December 9, 2010 are not accompanied by a signed written explanation from the producer, they will be considered incomplete and no action will be taken whatsoever.**--***

E Eligible Producers for CAP

See Part 2 for eligible producers for CAP. Each producer applying for CAP must sign FSA-860.

141 Applying for Benefits (Continued)

F General Signature Requirements

Signatures must meet the requirements of this handbook and 1-CM. An applicant must sign in the applicant's individual capacity.

G Delegation of Authority Requirements

COC or CED must act on all completed and signed FSA-860's submitted.

H Amending or Withdrawing FSA-860's

An approved FSA-860 may be amended or withdrawn at any time until the end of signup December 9, 2010; however, copies of any and all FSA-860's that have already been submitted must always be kept in the file.

Producers may, at any time from October 25, 2010, through December 9, 2010, do any of the following, as applicable:

- apply for CAP on FSA-860
- amend FSA-860 to add additional farms or crops to FSA-860, item 7
- amend FSA-860 to remove a farm or crop from FSA-860, item 7
- amend FSA-860, item 8 for any farm or crop
- withdraw 1 or more or all farms and crops from CAP.

Note: Producers must repay all CAP payments received for any farm or crop under FSA-860 that is withdrawn.

*--I Submitting FSA-860's

FSA-860's may be submitted in person at the appropriate County Office. FSA-860's may also be submitted by FAX according to 1-CM.**--***

142 FSA-860

A Parts of FSA-860

FSA-860 includes data for long grain rice, medium or short grain rice, upland cotton, soybeans, and sweet potatoes in which the producer has an interest within the disaster county. This paragraph provides a general overview of FSA-860's parts and itemizes when a part has to be completed by the producer or by the administrative county.

The following describes the parts of FSA-860.

Part		Description	Completed by
A	Producer Information	Provide producer's name, address, and phone number.	• Administrative County Office in CAP Workbook (items 3 and 4) • Producer (item 5).
B	Farm and Crop Information	Indicate eligible losses and type of loss for CAP crops for each farm number.	• Producer (items 7, 8, and 11) • Administrative County Office in CAP Workbook (items 6, 9, 10, 12, and 13).
C	Producer Certifications	Record of producer's agreement with information on FSA-860 and request to participate.	Producer after entry of all data.
D	Administrative COC Approval	Record of COC approval or disapproval of FSA-860.	Administrative COC after producer signs FSA-860.

B Crops Recorded on FSA-860

Crops that will be included on FSA-860 are long grain rice, medium or short grain rice, upland cotton, soybeans, and sweet potatoes for which a producer 2009 crop acreage in a disaster county on FSA-578. If a producer's FSA-578 did not include acreage for 1 or more of these crops for the 2009 crop year in a disaster county, the crop or crops will not appear on the application. If a producer did not have crop acreage for a crop on FSA-578 in a disaster county, that crop is not eligible for payment consideration under CAP.

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C Acres Recorded on FSA-860

The acreage used on FSA-860 is the reported or determined acreage of the producer in a disaster county as shown on FSA-578. Producers filing FSA-860 certify that for their eligible acreage in a disaster county, a 5 percent or greater loss was suffered because of excessive moisture or related condition. Acreage not shown on a producer's FSA-578 will not be included in the calculation and will not be eligible for payment under CAP. Producers must verify that the acres provided on FSA-860 represent only eligible acres that are physically located in a disaster county. Producers may revise the acreage downward to exclude ineligible acres.

In some instances, the determined acreage for a crop was loaded as zero on FSA-578 for prevented planted acres of an initial crop because a subsequent crop was planted that did **not** meet double-cropping provisions. If the initial crop would otherwise be eligible under CAP, the approved acreage for the initial crop will be considered eligible for CAP payment. The producer must manually file FSA-860 to apply for CAP payment for those acres.

Reminder: Crop acreage eligible for payment consideration is limited to 2009 crop year planted and considered planted acreage in a disaster county on FSA-578 as of October 22, 2010. There are **no** provisions for adding 2009 crop acreage not shown in a disaster county on FSA-578 by October 22, 2010, as reported or ***--**determined crop acreage, other than the exception in this subparagraph.**--***

Note: Because some farms have tracts that may be outside disaster counties, producers filing FSA-860 for those farms are responsible for limiting acreage to the amount of acres of an eligible crop in a disaster county for that farm. If 50 percent or more of a tract's acreage physically resides in the disaster county, the tract will be considered in the disaster county for CAP purposes. The producer must manually revise the acreage recorded on FSA-860 to reflect the correct eligible acreage, if necessary.

D Share Recorded on FSA-860

The share used on FSA-860 is the producer's share for each eligible crop for each farm number reported by the producer on FSA-578. Shares not reported on a producer's FSA-578 will not be included in the calculation and will not be eligible for payment under CAP.

Producers signing FSA-860 certify that the share on FSA-860 is the producer's ownership share of the eligible crop acreage in a disaster county on a farm.

Notes: The share reflected on FSA-860 will not necessarily match the share shown on the FSA-578 summary. The eligible share for CAP is the producer's share of the crop acreage in a disaster county on a farm.

If a producer indicates a producer's share is incorrect on FSA-860, follow subparagraph 22 E.

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E Whether Producer Suffered a 5 Percent or Greater Loss

The producer shall indicate whether or not the producer suffered a 5 percent or greater loss for the producer's share of the eligible crop acreage reflected on the application. The producer must have verifiable or reliable documentation of a 5 percent or greater loss and must retain that documentation for 3 years from the time of application; however, unless otherwise required by COC, the producer does not need to provide documentation of loss at the time of application.

--Note:** If in FSA-860, item 7, the producer does not indicate "Yes" or "No" for any crop on any farm by the end of the signup period, FSA will interpret that as "no application made" for that crop on that farm. Failure to indicate "Yes" or "No" in FSA-860, item 7 for any crop on any farm does **not** result in an incomplete FSA-860 and does **not** prevent FSA from taking action on that FSA-860.**--

F Whether Producer's Loss Was Because of Quantity or Quality

For each crop for which a producer claims a 5 percent or greater loss, the producer shall indicate whether the crop's loss was in quantity or quality. The producer must have verifiable or reliable documentation of the loss and must retain that documentation for 3 years from the time of application.

G Timing of Producer Signature

The producer shall **not** sign FSA-860 until both Parts A and B are complete. COC **cannot** act on FSA-860 until the producer has completed the application and signed Part C.

Note: Incomplete applications or applications that are not signed require no action by FSA. Producers are due decisions from FSA only on applications submitted.