

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Finality Rule and Equitable Relief 7-CP (Revision 3)	Amendment 7
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Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 4 has been added to provide instructions for submitting requests for relief, requests for applications of the finality rule, and other waivers of program procedure to DAFP electronically.

Paragraph 47 has been amended to recognize that individual program directives may provide an exception to the limitation on the amount of money involved on STC relief authority.

Page Control Chart		
TC	Text	Exhibit
1, 2	1-9, 1-10 1-11, 1-12 (add) 3-13, 3-14	1, pages 1, 2

Table of Contents

Page No.

Part 1 General Information

1	Overview.....	1-1
2	Sources of Authority and Related References	1-2
3	Equitable Relief and Finality Rule.....	1-3
4	Submitting Requests to the Washington, DC, National Office	1-11
5-15	(Reserved)	

Part 2 Finality Rule

16	Finality Rule General Information.....	2-1
17	When Finality Rule Applies.....	2-4
18	When Finality Rule Does Not Apply	2-6
19	Finality Rule Required Action	2-8
20	Disaster Guidelines	2-11
21	CCC Loans and LDP Guidelines	2-13
22	NAP Guidelines	2-16
23-40	(Reserved)	

Part 3 Equitable Relief Provisions

41	Applicability of Equitable Relief to Program Decisions	3-1
42	Prerequisites to Equitable Relief.....	3-3
43	Programmatic Relief	3-5
44	Misaction/Misinformation	3-6
45	Failure to Fully Comply.....	3-10
46	COC Guidelines for Recommending Equitable Relief.....	3-13
47	STC Authority and Action.....	3-14
48	Special Equitable Relief Authority for SED's.....	3-15
49	Preventing Future Need for Relief.....	3-19
50-70	(Reserved)	

Part 4 Documentation and Reports

71	Documentation.....	4-1
72	Reports	4-3

Table of Contents (Continued)

Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority
2	Definitions of Terms Used in This Handbook
3, 4	(Reserved)
5	FSA-321, Finality Rule and Equitable Relief
6	Example of Finality Rule Letter
7-9	(Reserved)
10	Example Format for Report of SED Special Approval Authority (PA-134R)
11	Example Format for Reporting the Annual FSA-321 for Equitable Relief (PA-135P)
12	Example Format for Reporting the Annual FSA-321 for Finality Rule (PA-129R)

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	<p>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:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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. <u>1/</u>
	DAFP	Cases exceeding STC or SED authority. <u>2/</u>
<p>Note: Relief for a participant cannot be combined among the various granting authorities. Relief may be granted by STC, SED, or DAFP.</p> <p>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.</p> <p>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.</p>		

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 Submitting Requests to the Washington, DC, National Office

A Overview

DAFP has developed procedure for electronically submitting requests for relief, requests for applications of the finality rule, and other waivers of program procedure. Where this handbook or other FSA directive provides that a matter or issue be sent to the National Office to DAFP or any of the respective divisions of DAFP, including CEPD, PECD, or PSD, State Offices shall submit the file according to this paragraph.

B Electronically Submitting Requests

Beginning January 1, 2013, **all** requests for relief or finality seeking written decision, approval, or concurrence by DAFP, CEPD, PECD, or PSD will be submitted by internal FSA e-mail from State Offices to **ra.dcwashing2.dafp**, according to the format in subparagraph C.

Requests submitted according to this paragraph **must** be sent to DAFP by e-mail with an encrypted PDF attachment. Include a point of contact in the text of the e-mail, but nothing else of substance. Encrypt the attachment with the password that DAFP will provide to the field under separate cover. Call DAFP at 202-720-8513 if you have questions about the password.

C Format for Requests, Subject Line of E-Mails, and Required Attachments

The e-mail subject line **must** be formatted as follows:

- State abbreviation (for example, “AZ” for Arizona)
- responding division (for example, “PECD”)
- type of action requested, as follows:
 - “FN” for finality rule
 - “MM” for misinformation/misaction
 - “FFC” for failure to fully comply
 - “PR” for programmatic relief
 - “OTH” for combinations of equitable relief or finality
- participant’s name
- date of request (for example, “01-10-2013” for January 10, 2013).

Example: “AZ/PECD/FFC/JohnDoe/01-10-2013”.--*

***--4 Submitting Requests to the Washington, DC, National Office (Continued)**

C Format for Requests, Subject Line of E-Mails, and Required Attachments (Continued)

Attachments must be in PDF and encrypted. The following **must** be included in the attachments:

- FSA-321
- written narrative explaining what is at issue and what is being sought
- **all** documents required by this handbook or other FSA directive, for example, CCC-471, CCC-576, FSA-578, and program documents, as applicable
- COC/STC concurrence or approval, as applicable
- other information that may help processing the request
- point of contact for questions about the request.--*

5-15 (Reserved)

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**

--Except as may otherwise be authorized in other FSA program directives, 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.

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-471	Non-Insured Crop Disaster Assistance Program (NAP) Application for Coverage (2010 and Subsequent Crop Years)		4
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-576	Notice of Loss and Application for Payment Noninsured Crop Disaster Assistance Program		4

Reports, Forms, Abbreviations, and Redelegations of Authority

Forms (Continued)

Number	Title	Display Reference	Reference
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	4, 16, 19, 44, 48, 71, Ex. 10-12
FSA-578	Report of Acreage		4

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