
Finality Rule and Equitable Relief

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For State and County Offices

SHORT REFERENCE

7-CP
(Revision 2)

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Finality Rule and Equitable Relief
7-CP (Revision 2)**

Amendment 5

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 3 C has been amended for clarity.

Paragraph 83 has been amended to change the submission date for the annual equitable relief and finality rule summary reports.

Paragraphs 84, 85, and 86 have been withdrawn because they are no longer applicable with the discontinued use of the current automated reporting system until an updated Web system can be deployed.

Exhibit 5 has been amended to provide updated FSA-321 instructions.

Page Control Chart		
TC	Text	Exhibit
1, 2	1-7, 1-8 4-3 4-4 (remove) 4-5 through 4-16 (remove) 4-17 (remove)	3, page 1 (remove) 5, pages 1, 2 page 3

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Part 1 General Information

1 Overview

A Handbook Purpose

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

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

B Related Handbooks

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

Related Handbooks		
1-AFIDA	8-DF	1-PL
1-APP	1-ECP	1-RCWP
7-CN	58-FI	1-TAP
2-CP	3-LD	1-TB SCOAP
4-CP	8-LP	9-TB SCOAP
* * *	1-NAP	10-TB SCOAP
6-CP	1-PF	
1-DCP	2-PF	

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

See 58-FI for rules about disregarding debts of \$35 or less.

2 Sources of Authority and Related References**A Statutory Authority**

This table provides the statutory authority for finality rule and equitable relief provisions.

Provision	Statutory Authority
Finality Rule	Department of Agriculture Reorganization Act of 1994, Section 281
Equitable Relief	The Farm Security and Rural Investment Act of 2002, Section 1613

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.

3 **Finality Rule and Equitable Relief Overview**

A Comparative Overview

The following provides a comparative overview of the basis for relief under the finality rule, misaction/misinformation, and failure to fully comply provisions.

Type of Relief	Basic Provisions
Finality Rule	<ul style="list-style-type: none"> • An error was made by FSA which resulted in an overpayment to a program participant. • At least 90 days have passed since the participant filed the program application, including any required supporting documents. • There was no error or misrepresentation by the participant. • The participant had no reason to know an error had been made.
Misaction/ Misinformation	<ul style="list-style-type: none"> • An error was made by a program participant, but the error was the result of the detrimental, good faith reliance of the participant on an error made by FSA. • There was no misrepresentation by the participant. • The participant had no reason to know there was an error. • The error caused a failure by the participant to meet the requirements of the applicable program.
Failure to Fully Comply	<ul style="list-style-type: none"> • FSA did not make an error that caused the failure of the participant to fully comply with the requirements of the applicable program. • An error was made by the participant that did not meet the requirements of the applicable program, but the participant made a good faith effort to fully comply.

3 Finality Rule and Equitable Relief Overview (Continued)

B Relief Determination Overview

The following shall be used to assist COC’s, STC’s, and SED’s in determining:

- if relief can be granted when a program participant is determined to be ineligible for all or a portion of a payment or benefit
- the correct relief authority.

Making Finality Rule and Equitable Relief Determinations	
Step	Action
1	<p>Determine whether the ineligibility was caused by an error(s) made by FSA and/or an inadvertent error made by the participant.</p> <p>If an error causing the ineligibility was:</p> <ul style="list-style-type: none"> • made by FSA, go to step 2 • not made by FSA, go to step 5.
2	<p>Determine whether 90 calendar days have passed since the application, including any required supporting documentation, was filed by the participant.</p> <p>If 90 calendar days have:</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • may apply according to Part 2, 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 according to Part 2, go to step 4.
3	<p>If the finality rule may apply according to Part 2, the case shall be forwarded for determination to:</p> <p>SED, if the amount of relief does not exceed \$25,000 DAFP, through SED, if the amount of relief exceeds \$25,000.</p> <p>Go to step 7.</p>

3 Finality Rule and Equitable Relief Overview (Continued)

B Relief Determination Overview (Continued)

Making Finality Rule and Equitable Relief Determinations	
Step	Action
4	<p>Determine whether there was action or inaction by the participant that meets all of the following conditions:</p> <ul style="list-style-type: none"> • the action or inaction: <ul style="list-style-type: none"> • was to the detriment of the participant • caused a failure to meet the requirements of the applicable program • was based upon good faith reliance on the action or advice of an authorized FSA representative • the participant had no reason to know that the action or advice upon which they relied was incorrect. <p>If all of the above:</p> <ul style="list-style-type: none"> • do not apply, relief cannot be granted under misaction/misinformation provisions, go to step 5 • apply, determine whether misaction/misinformation provisions may apply according to Part 3; if misaction/misinformation provisions: <ul style="list-style-type: none"> • 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, go to step 5.

3 Finality Rule and Equitable Relief Overview (Continued)

B Relief Determination Overview (Continued)

Making Finality Rule and Equitable Relief Determinations	
Step	Action
5	<p>Determine whether the participant:</p> <ul style="list-style-type: none"> • failed to fully comply with the terms and conditions of a covered program • made a good faith effort to fully comply • rendered substantial performance. <p>If all of the above:</p> <ul style="list-style-type: none"> • do not apply, relief cannot be granted under failure to fully comply provisions; notify the participant of amounts due according to applicable procedures • apply, determine whether failure to fully comply provisions may apply according to Part 3; if failure to fully comply provisions: <ul style="list-style-type: none"> • 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 Finality Rule and Equitable Relief Overview (Continued)

B Relief Determination Overview (Continued)

Making Finality Rule and Equitable Relief Determinations	
Step	Action
6	<p>If misaction/misinformation or failure to fully comply provisions 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, the case is within the relief authority of STC • does not exceed a total of \$20,000 for the participant, 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 and 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 Finality Rule and Equitable Relief Overview (Continued)

C Relief Authority Overview

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

Summary of Finality Rule and Equitable Relief Authority		
Finality Rule	SED	up to \$25,000 per case
	DAFP	cases exceeding SED authority
Misaction/Misinformati on 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>
<u>1/</u> 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.		
* <u>-2/</u> 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.--*		
<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>		

4-15 (Reserved)

Part 2 Finality Rule**16 Finality Rule General Information****A Statutory Language**

The Department of Agriculture Reorganization Act of 1994, Section 281 provides that “[E]ach decision of a State, county, or area committee or an employee of such a committee..., made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 calendar days after the date of filing of the application for benefits, [and] ...no action may be taken...to recover amounts found to have been disbursed as a result of the decision in error unless the participant had reason to believe that the decision was erroneous.”

B Date of Implementation

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

C Relation to Other Requirements

The finality rule:

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

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

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

16 Finality Rule General Information (Continued)

D 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 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 erroneous determinations made by COC's, STC's, or their employees. This includes, but is not limited to, the following:

- program payments containing incorrect amounts
- documented decisions by COC, STC, or their employees
- erroneous notices resulting in overpayment
- calculation errors that are subsequently approved.

Note: See paragraph 18 for guidance in determining when the finality rule does not apply.

B Application for Benefits

The finality rule applies only to an erroneous determination that is related to an application for benefits. The finality rule does **not** apply to determinations relating to CRP-1, because it is a contract and not an application for benefits.

C Subsequent Year Determination

Should an erroneous determination have multi-year consequences, such as multi-year contracts and bases, the finality rule shall only apply through the year in which the error was found and communicated to the participant.

Example: The producer will remain eligible for benefits on an incorrect marketing quota for tobacco under the erroneous notice provision or finality rule, but the corrected determination shall be used to determine quota for subsequent years.

D Non-Timely Notification

The finality rule may apply if an error is discovered, but the participant is not notified within 90 calendar days of the filing of the application for benefits, including any required supporting documents. The participant shall be considered notified on the earlier of the date:

- the notification was mailed to the participant
- the participant was notified in person, if documented.

18 When Finality Rule Does Not Apply**A Inapplicable Functions and Decisions**

The finality rule does not apply to:

- functions performed under Section 376 of the Consolidated Farm and Rural Development Act
- erroneous 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 Wrongdoing by Participant

The finality rule does not apply if an erroneous determination is made in good faith based upon wrongdoing by or on behalf of the participant. Wrongdoing may consist of any of the following:

- misrepresentation
- false statement
- fraud
- willful misconduct.

Example: An individual received payment based on his or her misrepresentation that he or she was a tenant on a farm participating in DCP.

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".

18 When Finality Rule Does Not Apply (Continued)

D Non-Final Determinations

The finality rule does not apply if a determination is not considered final. The determination will not be considered final if any of the following apply:

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

Note: See subparagraph 19 B for further information.

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

E Contracts

The finality rule does **not** apply to determinations relating to contracts. Therefore, the finality rule does not apply to determinations or payments relating to CRP-1's because they are contracts, not applications for benefits.

19 Finality Rule Required Action

A Action When Finality Rule May Apply

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

Note: See paragraph 17 for further information on when the finality rule applies.

IF the benefit resulting from the erroneous determination has...	THEN...	
not been disbursed	follow the steps in this table.	
	Step	Action
	1	Do not disburse the incorrect payment to the participant.
	2	Document each case in COC or STC minutes, as applicable. Do not complete FSA-321 for the participant.
	3	Compute the correct payment, if any, according to the applicable program procedure.
	4	Disburse the payment, if any, for the correct amount. If the participant has been previously notified of the erroneous determination, send a notification letter to the participant: <ul style="list-style-type: none"> • describing the error • informing the participant of his or her appeal rights according to 1-APP.
	5	Place the County Office copy of the letter in the applicable program folder.

19 Finality Rule Required Action (Continued)

A Action When Finality Rule May Apply (Continued)

<p>IF the benefit resulting from the erroneous determination has...</p>	<p>THEN...</p>	
<p>been disbursed</p>	<p>follow the steps in this table.</p> <p>Note: Step 2 does not apply to cases involving STC, COC, or their employees.</p>	
	<p>Step</p>	<p>Action</p>
	<p>1</p>	<p>Document each case in COC or STC minutes, as applicable, and on FSA-321. See Exhibit 5.</p>
	<p>2</p>	<p>Sign FSA-321 and forward to SED for final approval or disapproval. See subparagraph 82 D for additional documentation information.</p>
	<p>3</p>	<p>If approved by SED, provide written notice of the error to the participant.</p> <p>Note: See subparagraph B for action to be taken if not approved by SED.</p> <p>Written notice shall provide that:</p> <ul style="list-style-type: none"> • 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 shall not remain in effect for subsequent years. <p>Note: See Exhibit 6 for an example of the finality rule approval letter.</p>

19 Finality Rule Required Action (Continued)

B Action When Finality Rule Does Not Apply

This table 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	<ul style="list-style-type: none"> • immediately notify the participant, by letter, of the error <p style="text-align: center;">Note: See subparagraph 18 D for further information on timely notification of finality rule applicability.</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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. Indicate in the letter that any erroneous information provided previously is superseded by the corrected determination.

Note: There is no need to notify the participant by letter of the finality rule determination if he or she had not yet been informed of his or her eligibility for the applicable program.

20 Disaster Guidelines**A When Finality Rule Applies**

There are a number of situations specific to the filing of an application for ad hoc disaster benefits when the finality rule may apply. They include, but are not limited to, cases when:

- disaster payment was based on incorrect:
 - prices
 - crop appraisal performed by the COC or STC representative
 - figure that was entered into the automated system
 - yield
 - calculations of correct and complete production records provided timely by the producer
- correct production evidence was incorrectly calculated and crop did not meet required loss for benefits
- producer provided correct information on cause of loss on the application and even though the loss was not an eligible disaster or related condition, COC approved it
- COC did not use correct handbook procedure or had inadequate documentation on their method to assign production.

20 Disaster Guidelines (Continued)

B Effective Date

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

- program application
- AD-1026
- CCC-502
- agreement to purchase crop insurance or NAP, if applicable
- gross revenue certification
- FSA-578
- required production evidence.

C When Finality Rule Does Not Apply

The finality rule does not apply when the producer received disaster payments in excess of the limitation because the producer should be aware of the limitation provided in Federal regulations.

Note: There may be other 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 the following loan and LDP situations:

- producer received a loan or LDP based on a determination of when beneficial interest in the commodity is transferred and that was later determined to be in error

Note: This is a State or County Office error, unless the producer failed to provide all information required to make the determination.

- incorrect cropland factor or permitted entity share was used in calculation of the denied LDP amount.

Note: These situations are not exhaustive.

B Effective Date for Loans

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

C Effective Date for LDP's

The effective date to begin counting the 90 calendar days for:

- LDP's other than field direct, is the date CCC-633 LDP, including all required supporting documents, such as AD-1026 and CCC-502, is signed by the producer
- field direct LDP's, is the date the final production evidence is provided by the producer.

21 CCC Loans and LDP Guidelines (Continued)

D When Finality Rule Does Not Apply

This table provides some situations 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, other than field direct LDP, based on production evidence provided by the producer that was later determined to represent ineligible production	the producer should have known that the production was not eligible. Note: This may be considered a misrepresentation.
producer provided final production evidence for a loan or LDP with marketing loan repayments, which shows that the quantity is: <ul style="list-style-type: none"> • ineligible for the loan or LDP • less than the loan or LDP quantity 	it should be obvious to the producer that the production evidence was deficient or ineligible. Note: This may be considered a misrepresentation.
loan or LDP amount was incorrect because of the incorrect loan or LDP quantity	the producer is responsible for the loan or LDP quantity.
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.	Note: This may be considered a misrepresentation.

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: <ul style="list-style-type: none"> • of a program violation committed by the producer • it was discovered that the producer was a nonresident alien 	the producer violated program provisions.
producer received a loan or LDP based on the producer's certification that beneficial interest was retained	the producer did not certify correctly. Note: This may be considered a misrepresentation.
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 NAP. They include, but are not limited to, situations where:

- an FSA representative calculated NAP payments for the crop using incorrect payment factors, such as “prevented planting”, “planted but not harvested”, or “harvested”
- a payment was calculated for a loss because of disaster not being reasonably related to the basis for the area designation, if before 2001 crop year loss.
- an incorrect payment rate was used to calculate payments.

B Effective Date

The effective date to begin counting the 90 calendar days for 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

This table 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.
producer received payment for a crop in an approved area, but it was later determined CAT was available to the producer for the crop or commodity	NAP coverage is not available for crops or commodities with coverage provided under CAT.
producer received NAP payments and other USDA assistance for the same crop loss	producers are considered to be aware that they must choose between NAP and other assistance for the same loss.
producer received payment with the knowledge that the crop did not suffer more than a 50 percent loss of expected production	the producer is considered to know that NAP benefits cannot be paid if the crop’s production loss is 50 percent or less.

23-50 (Reserved)

Part 3 Misaction/Misinformation and Failure to Fully Comply

Section 1 Equitable Relief General Information

51 Program Applicability

A Covered Programs

Programs covered by the provisions of this part are those:

- administered by FSA under which price or income support or production or market loss assistance, is provided to producers of agricultural commodities
- conservation programs administered by FSA.

This part is not applicable to agricultural credit programs carried out under the Consolidated Farm and Rural Development Act.

52 Equitable Relief Overview

A Types of Situations

Relief may be authorized according to this part for participants who are determined to be out of compliance with the requirements of covered programs and thereby ineligible for a loan, payment or other benefit under a covered program, if either of the following applies:

- the participant acting in good faith, relied on the action or advice of an authorized FSA representative to the detriment of the participant (misaction/misinformation)
- the participant failed to comply fully with the requirements of the covered program, but made a good faith effort to comply with the requirements (failure to fully comply).

B Forms of Relief

Relief may be authorized according to the provisions of this part to allow a participant in a covered program to:

- retain commodity loans, payments, or other benefits received under the covered program
- continue to receive loans, payments, or other benefits under the covered program
- continued to participate, in whole or in part, under any contract executed under the covered program
- in the case of a conservation program, re-enroll all or part of the land covered by the program
- receive other equitable relief as determined to be appropriate.

Note: The participant may be required to take actions designed to remedy the failure to fully comply situation as a condition of relief.

52 Equitable Relief Overview (Continued)

C Relief Requests

Requests for relief may be initiated:

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

D Effective Date

Equitable relief authority under this part applies to cases for which the basis for the relief occurred after May 12, 2002.

--53 Misaction/Misinformation or Failure to Fully Comply Not Applicable*A Areas Not Subject to Misaction/Misinformation Relief--***

The following areas are not subject to relief under the provisions of this part:

- agricultural credit programs carried out under the Consolidated Farm and Rural Development Act
- beneficial interest

Note: Beneficial interest is a statutory requirement mandated by law; therefore, equitable relief is not applicable.

- programs not directly administered by FSA

Example: The Environmental Quality Incentives Program is a conservation program where NRCS has the primary responsibility. NRCS will administer equitable relief provisions applicable to their areas of administration.

- 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.

***--B Areas Not Subject to Failure to Fully Comply Relief**

The following areas are not subject to relief under the provisions of this part:--*

- areas where relief provisions are already provided under the particular program regulations and handbook provisions

Examples: DCP fruit and vegetable violation relief.

Programs providing liquidated damage assessments as a condition of reinstating program eligibility.

***--Note:** Failure to fully comply provisions do not provide for the--* reduction of penalties or assessments determined under individual program regulations or procedures.

- program application deadlines.

Note: Certain programs have limited funding authorizations or regulatory restrictions that cannot be altered under these relief provisions.

Section 2 Misaction/Misinformation

58 Relief Based on Misaction/Misinformation

A When Misaction/Misinformation Provisions May Apply

Misaction/misinformation refers to provisions that allow the granting of relief to consider a participant, who did not meet all of the requirements of a covered program, as meeting the requirements of the program if all of the following apply.

- The reason the participant did not meet the requirements of the program is that the participant acted, or failed to act, as a result of detrimental reliance upon the incorrect action of, or incorrect information from, an FSA representative.
- The detrimental reliance by the participant upon the incorrect action or information of an FSA representative resulted in ineligibility for program benefits for which the participant would have otherwise been eligible.
- The participant did not have sufficient reason to know that the action or information upon which they relied was improper or erroneous.
- The participant did not act in reliance on their own misunderstanding or misinterpretation of program provisions, notices or information.

B Source of Misaction or Misinformation

Relief under misaction/misinformation provisions generally applies only to incorrect action or information by COC, STC, or their employees.

Exception: If it is determined by the NRCS State Conservationist that the action or advice of an NRCS employee caused the ineligibility of a participant for a payment or benefit under an FSA program, payments and benefits may be made available to the extent similar relief would be allowed according to the provisions of this part.

58 Relief Based on Misaction/Misinformation (Continued)**C Extent of Relief**

Equitable relief may be granted according to this part to participants who acted, or failed to act, as a result of detrimental reliance upon the incorrect action of, or incorrect information from, an FSA representative. Participants who receive relief based on misaction/misinformation of FSA personnel are considered to have met the requirements of the applicable program.

D Qualifying As Misaction or Misinformation

The fact that an error in action or information is made by FSA personnel does not mean that the error automatically qualifies as a basis for relief under misaction/misinformation provisions. As provided in subparagraph A, relief under misaction/misinformation provisions requires that the participant acted, or failed to act, as a result of detrimental reliance upon the incorrect action of, or incorrect information from, an FSA representative. If all of the requirements of subparagraph A are not met, relief cannot be granted under misaction/misinformation provisions. However, depending upon the circumstances of the particular case, it is possible that some other provision, such as the finality rule or failure to fully comply, may apply. The correct relief provision, if any, shall be applied when relief is being considered.

Example: The County Office failed to make the correct “person” determination and combine a county government entity as one “person” with the combined State producer in the automated system. As a result, payments were issued in excess of the limitation afforded the combined State producer.

Although FSA personnel did not take the correct action to combine the county government entity with the combined State producer, this situation does not qualify for relief under misaction/misinformation provisions. The county government entity did not act, or fail to act, as a result of detrimental reliance upon the incorrect action of, or incorrect information from, an FSA representative. The county government entity may have received payments it was not entitled to receive, but that error does not qualify for relief under misaction/misinformation provisions.

59-62 (Reserved)

Section 3 Failure to Fully Comply

63 Relief Based on Failure to Fully Comply

A When Failure to Fully Comply Provisions May Apply

Failure to fully comply refers to provisions that allow the granting of relief if all of the following apply.

- A participant made a good faith effort to fully comply with the terms and conditions of a covered program.
- The participant rendered substantial performance.
- The participant takes action to remedy the failure to fully comply situation if required by the reviewing authority as a condition of receiving relief.

B Good Faith Effort to Fully Comply Determinations

The reviewing authority shall consider the following guidelines when determining whether the participant made a good faith effort to fully comply with the requirements of a program.

- Did the participant provide erroneous information to FSA, even if was unintentional?
- Did the participant have sufficient knowledge or reason to know the action or inaction was improper or erroneous?
- What information was available to the participant?
- Did the participant act in reliance on their own misunderstanding or misinterpretation of program provisions, notices, or information?
- Did the participant gain a benefit by not fully complying with the requirements of the program?
- Did the failure to fully comply occur because of carelessness by the participant?
- Did the participant control, or could the participant have controlled, the factors contributing to the failure to fully comply?

Note: The fact that a participant has previously always been in full compliance is not, in itself, a basis for determining that the participant made a good faith effort to fully comply.

63 Relief Based on Failure to Fully Comply (Continued)**C Extent of Relief**

Equitable relief may be granted according to this part to participants who failed to fully comply with the terms and conditions of a covered program. In most cases, it would not be equitable to grant full relief to a participant who failed to fully comply with the terms and conditions of a covered program.

D Relation to Other Provisions

Relief under the failure to fully comply provisions of this section shall not be used to supercede other program relief provisions.

Example: Watermelons were planted and harvested on cropland considered to be base acres under DCP. Planting exceptions do not apply. The farm on which the watermelons were planted was enrolled in DCP for the current year. A violation of the DCP contract has occurred. However, using authority under DCP, COC determines the violation is not serious enough to warrant termination of the contract. Accordingly, in lieu of contract termination, payment reductions are assessed in an amount equal to the sum of: the per-acre market value of watermelons times the number of acres in violation; plus the direct and counter-cyclical payments for each such acre.

Failure to fully comply provisions of this section shall not be used to reduce or waive the payment reduction computed according to DCP procedures.

64-67 (Reserved)

Section 4 Equitable Relief Determinations**68 COC Guidelines for Recommending Equitable Relief****A Items to Review and Document**

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

- actions by the participant that resulted in noncompliance

Note: The participant's signed and dated statement is required as documentation, unless the facts contain conclusive evidence of misaction/misinformation by an FSA employee.

- the basis for determining that a good faith effort to fully comply 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

Note: This statement is to document whether erroneous information was provided, thereby giving basis to the case.

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

B Recommendation to STC

COC shall clearly define and document the following according to Part 4:

- misaction/misinformation or failure to fully comply that occurred
- action recommended to STC.

69 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 a program participant.

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, shall be returned to COC, who shall inform the participant of appeal rights to STC or NAD.

70 Special Relief Approval Authority for SED's

A Special Relief Authority

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 as a result 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 than \$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 individual participants in this example does not exceed the SED authority, the total amount of relief for similarly situated producers (\$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 special relief authority, the request **shall not** be forwarded to DAFP for consideration. DAFP will not supercede a decision made by OGC.--*

70 Special Relief Approval Authority for SED's (Continued)

A Special Relief Authority (Continued)

This special authority does not extend to administering:

- payment limitation and payment eligibility provisions, including the average adjusted gross income limitation
- highly erodible land conservation and wetland conservation provisions.

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

B Adverse Decisions

Cases which result in adverse decisions or partial relief by SED shall be returned to COC, who shall inform the participant of applicable appeal rights according to 1-APP.

C Report of Special Relief Approval

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

71 Preventing Future Need for Relief**A Background**

It is quite expensive for FSA to extend unearned program benefits to a producer because of action or advice of an employee. 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 these unnecessary costs.

B Corrective Action

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

- additional training
- office procedure revision
- more serious action, if warranted.

***--C Plan of Corrective Action for Equitable Relief and Finality Rule**

SED's shall prepare a written plan identifying weaknesses in program delivery. This may include sharing of portions or entire County Office review information with all offices to minimize mistakes in program delivery. The plan shall 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.

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

SED shall submit a copy of the plan of corrective action for equitable relief and finality rule required in subparagraph C to PECD by January 10 each year. Report must be submitted to PECD 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 upon 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.

72-81 (Reserved)

Part 4 Documentation and Reports**82 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.

Note: SED determination is not required to be documented in STC minutes.

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
- action producer took based on misaction/misinformation
- farm, loan, or contract number
- incorrect amount paid
- amount that should have been paid.

82 Documentation (Continued)

D Submitting FSA-321 and Documentation

County Offices shall follow this table to submit FSA-321 and documentation to the State Office.

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 level of relief for all cases that are beyond the authority of STC and SED.

Note: 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.--*

83 Reports

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

SED's who exercise the special relief approval authority shall report the exercise of such authority using the format in Exhibit 10. Report shall be submitted to PECD by FAX at 202-690-2130. This report shall be submitted upon 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, the report 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 2 programs, both programs 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 a report using the format in *--Exhibit 11. Report must be submitted to PECD by FAX at 202-690-2130 by January 3 each year. **Negative reports are required.--***

The report shall cover **all** cases for which equitable relief was requested according to the provisions of this handbook. 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.

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 a report using the format in Exhibit 12. Report must be *--submitted to PECD by FAX at 202-690-2130 by January 3 each year. **Negative reports--* are required.**

The report 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 equitable relief and finality rule reports
- provide a copy of the summarized annual equitable relief and finality rule reports to FMD for Improper Payments Information Act, Pub. L. 107-300 purposes.

84-86 (Withdrawn--Amend. 5)

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 10	Yes	83
PA-134R	SED Report of Exercise of Special Approval	Case-by-case	Upon Approval	No	83
PA-135P	Report of Equitable Relief	Annually	January 10	Yes	83
PA-136R	SED Corrective Action Plan	Annually	January 10	Yes	71

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification		20, 21
CCC-184	CCC Check		83, Ex. 5
CCC-502's	Farm Operating Plan for Payment Eligibility Review		20, 21
CCC-633 LDP	Loan Deficiency Payment Certification and Application		21
CRP-1	Conservation Reserve Program Contract		17, 18, 69
FSA-321	Finality Rule and Equitable Relief	Ex. 5	Text, Ex. 11, 12
FSA-578	Report of Acreage		20

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
FLM	Farm Loan Manager	71
PT	program technician	71

Redelegations of Authority

This table list 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

Covered Program

A covered program is 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

The effective date is 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

An actual reason to know is a direct and clear knowledge of the rule or provision, such as personal conversations where the person is correctly informed about program rules or provisions or their interpretations.

A constructive reason to know is knowledge by way of a rule or provision that a person could or should have known such as, but not limited to, the following:

- statutes or public laws
- published regulations
- program applications, loan documents, or contract (including any appendix)
- letters or notices the person receives
- press releases and newsletters.

FSA-321, Finality Rule and Equitable Relief

A Completing FSA-321

Complete FSA-321 * * * according to this table * * *.

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, or failure to fully comply applies.
5	Enter the program in which finality rule, misaction/misinformation, or failure to fully comply 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	<p>Complete for all finality rule, misaction/misinformation, and failure to fully comply cases.</p> <p>Note: For item 9A misaction/misinformation cases, summarize the misinformation given or misaction taken and any action taken based thereon. Attach a statement signed and dated by the producer.</p>
11A and B	Complete for finality rule cases only.
12A	<p>For finality rule, enter the incorrect amount paid because of the error. Do not enter an amount if the erroneous payment was not made.</p> <p>For 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.</p>
12B	<p>For finality rule, enter the amount that should have been paid if the error had not occurred.</p> <p>For 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.</p>
12C	Enter the difference between items 12A and 12B.

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

A Completing FSA-321 (Continued)

Item	Instructions
13 A and B	Complete for misaction/misinformation and failure to fully comply cases only.
14A	Complete for all finality rule, misaction/misinformation, and failure to fully comply cases.
14B through 14D	<p>The COC chairperson shall:</p> <ul style="list-style-type: none"> • sign • enter title • enter applicable date of COC minutes.
15A	Complete for STC action only.
15B	Complete for SED action only.
15C through 15E	<ul style="list-style-type: none"> • 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 CCC-184 or EFT 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	<p>For OGC concurrence on special relief approval authority only.</p> <p>Note: Enter information only if SED invokes special relief authority. Special relief applies to misaction/misinformation and failure to fully comply.</p>
18A through 18C	For cases of DAFP approval only.

--*

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

B Example of FSA-321

The following is an example of FSA-321.

*--

<p>This form is available electronically.</p> <p>FSA-321 (05-26-05)</p> <p>FINALITY RULE AND EQUITABLE RELIEF</p>				<p>USDA-FSA</p>	<p>1. State Name 48</p>	<p>2. County Name 341</p>	<p>3. Control No.</p>	<p>4. Program Year 2006</p>
<p>5. Program Direct and Counter-Cyclical Payment</p>						<p>6. Reference No. FSN 2222</p>		
<p>7. Type of Request: (Choose one)</p> <p>Finality Rule <input type="checkbox"/> Misaction/Misinformation <input checked="" type="checkbox"/> Failure to Fully Comply <input type="checkbox"/></p>								
<p>8. Participant's Name and Address David Englert 277 W Naples St Riverside CA 91360-7101</p>								
<p>9A. Fully Describe the Error Provide a detailed description of the error and circumstances. Attach additional documentation as needed.</p>								
<p>9B. Who Made the Error? Mary Carillo</p>					<p>9C. Who Discovered the Error? (OIG, COR, Producer, Etc.) COR</p>			
<p>10. State the Circumstances Under Which the Discovery Was Made COR Report February 20, 2007</p>								
<p>11A. Finality Rule Effective Date (MM-DD-YYYY)</p>					<p>11B. Date Discovered (MM-DD-YYYY) 02-20-2007</p>			
<p>12A. Incorrect Amount \$ 8,000.00</p>			<p>12B. Correct Amount \$ 2,000.00</p>			<p>12C. Difference Between Items 12A and 12B \$ 6,000.00</p>		
<p>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. Provide a summary of the participants action/inaction. Attach additional documentation as needed.</p>								
<p>13B. All requirements for relief have been met in accordance with 7-CP. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>								
<p>14A. Recommendation and basis for recommendation: Recommend a specific level of relief.</p>								
<p>14B. Signature (COC Representative)</p>				<p>14C. Title</p>			<p>14D. Date of COC Minutes (MM-DD-YYYY)</p>	
<p>15A. STC Action (Choose One) <input type="checkbox"/> requirements for equitable relief met; case within STC authority <input type="checkbox"/> requirements for equitable relief met; approval by DAFP recommended <input type="checkbox"/> requirements for relief not met</p>								
<p>15B. SED Action (Choose One) <input checked="" type="checkbox"/> relief granted under special authority, subject to OGC concurrence <input type="checkbox"/> DAFP approval recommended <input type="checkbox"/> finality rule applies</p>								
<p>15C. Signature (SED or STC) /s/ Mary Jones</p>				<p>15D. Title SED</p>			<p>15E. Date (MM-DD-YYYY) 03-12-2007</p>	
<p>16A. CCC-184 or EFT Number</p>				<p>16B. Date of CCC-184 or EFT</p>			<p>16C. Amount of Refund \$</p>	
<p>For Cases of SED Request for Special Relief Approval Authority Only</p>								
<p>17A. OGC Signature /s/ John Smith</p>				<p>17B. OGC Action <input checked="" type="checkbox"/> Concur <input type="checkbox"/> Does not concur</p>			<p>17C. Date (MM-DD-YYYY) 04-01-2007</p>	
<p>For Cases of DAFP Authority Only</p>								
<p>18A. DAFP Signature</p>				<p>18B. DAFP Action <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove</p>			<p>18C. Date (MM-DD-YYYY)</p>	
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (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 USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D. C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small></p>								

--*

Example of Finality Rule Letter

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM SERVICE AGENCY
CASTRO COUNTY FSA OFFICE
P.O. BOX 667
DIMMITT, TX 79027
(806) 647-2153

November 1, 200X

Jim Johnson
484 5th St.
Dimmitt, Texas 79027

Dear Mr. Johnson:

<Describe the erroneous determination>

It has been determined that the finality rule applies to your application for benefits under the 2000 Crop Disaster Program. The finality rule provides that no actions may be taken to recover amounts disbursed as a result of the decision in error, if:

- 90 calendar days have passed since the date the application for benefits was filed
- there is no evidence of misrepresentation, false statement, fraud, or willful misconduct by the program participant
- the participant has no reason to know the decision was erroneous.

Therefore, you are not required to return the erroneous payment of <payment amount> made on <date>.

Sincerely,

County Executive Director

Example of 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 - <u>Vermont</u>			Report Date - <u>June 1, 2006</u>	
County	Payment Type Per Participant	Amount of Relief Requested	Amount of Relief Approved	Basis for Relief
Addison	NAP LDP	\$19,000	\$19,000	Misinformation
Addison	LDP	\$5,000	\$2,000	Misaction

--*

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

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

*--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	<p>The basis shall be either “Misaction” or “Misinformation”.</p> <p>Note: Finality rule cases shall not be included. See Exhibit 12 for the annual report of finality rule cases.</p>
Additional Clarification	
<ul style="list-style-type: none"> • 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 denied by either SED or OGC. • 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. 	

--*

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.

*--

PA-135P						
State - <u>Vermont</u>				Report Date - <u>January 10, 2006</u>		
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
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 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: <ul style="list-style-type: none"> • 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". <p>Note: Finality rule cases shall not be included. See Exhibit 12 for the annual report of finality rule cases.</p>
Approval Authority	The approval authority shall be listed as either "STC", "SED", or "DAFP". Cases approved by NAD shall not be included.
Additional Clarification	
<ul style="list-style-type: none"> • This report shall be submitted to PECD annually by January 10th for relief granted during the previous calendar year. <p style="margin-left: 40px;">Example: Relief granted during calendar year 2006 for a 2004 program applicant shall be included on the 2006 annual report.</p> • This report shall include cases documented on FSA-321 where relief was denied. • 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 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 - <u>Vermont</u>			Report Date - <u>January 10, 2006</u>	
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				

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

*--The following provides instructions for the annual FSA-321 for finality rule 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 which the program participant was not determined entitled to retain because of the finality rule.
Approval Authority	Must be either SED or DAFP. STC does not have finality rule approval authority. Do not included finality rule cases approved through a NAD decision.
Additional Clarification	
<ul style="list-style-type: none"> • This report shall be submitted to PECD annually by January 10th for relief granted during the previous calendar year. Example: Relief granted during calendar year 2006 for a 2004 program applicant shall be included on the 2006 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 2006 to a case involving a 2004 program payment, the case shall be included on the 2006 annual report. 	

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