

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Paragraphs 84, 85, and 86 have been withdrawn because they are no longer applicable with the discontinued use of the current automated reporting system until an updated Web system can be deployed.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

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
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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3 Finality Rule and Equitable Relief Overview (Continued)

B Relief Determination Overview (Continued)

<b>Making Finality Rule and Equitable Relief Determinations</b>	
<b>Step</b>	<b>Action</b>
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"> <li>• does not exceed \$5,000 for each case, the case is within the relief authority of STC</li> <li>• 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"> <li>• the type of case is within the special relief authority of SED as provided in Part 3</li> <li>• 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</li> <li>• 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</li> </ul> </li> <li>• exceeds the authority of STC and SED, the case may be submitted to DAFP, if relief is recommended by STC.</li> </ul>
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><b>Note:</b> Relief for a participant cannot be combined among the various granting authorities. Relief may be granted by STC, SED, or DAFP.</p> <p><b>Example 1:</b> 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><b>Example 2:</b> 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)

## 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)**





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><b>Note:</b> 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"> <li>• sign</li> <li>• enter title</li> <li>• enter applicable date of COC minutes.</li> </ul>
15A	Complete for STC action only.
15B	Complete for SED action only.
15C through 15E	<ul style="list-style-type: none"> <li>• SED shall sign for finality rule, misaction/misinformation, or failure to fully comply (see subparagraph 3 C for relief authority)</li> <li>• STC shall sign for misaction/misinformation or failure to fully comply <b>only</b> (see subparagraph 3 C for relief authority)</li> <li>• enter title and date signed.</li> </ul>
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><b>Note:</b> 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.

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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><b>FSA-321</b> (05-26-05)</p> <p><b>FINALITY RULE AND EQUITABLE RELIEF</b></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><b>For Cases of SED Request for Special Relief Approval Authority Only</b></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><b>For Cases of DAFP Authority Only</b></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>								

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