

**INELIGIBLE TRACKING SYSTEM HANDBOOK**

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**U. S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D. C. 20250**

<b>FEDERAL CROP INSURANCE CORPORATION DIRECTIVE</b>		NUMBER: 24050
SUBJECT:		DATE: September 1998
<b>INELIGIBLE TRACKING SYSTEM HANDBOOK</b>		OPI: PRODUCT DEVELOPMENT DIVISION
		APPROVED: /S/ Tim B. Witt 09/03/98

## 1 PURPOSE AND OBJECTIVE

To provide instructions for administration of the Ineligible Tracking System (ITS). ITS contains records of persons who are not eligible to participate in any crop insurance programs insured or reinsured by Federal Crop Insurance Corporation (FCIC).

## 2 CANCELLATION

A Effective Date: Upon Approval

B Replaces: The FCIC 24050 dated August 17, 1998, replaces and rescinds the following issuance system and individual directives published as:

- (1) Handbooks and Amendments: FCIC 24050 (8/97) Amendment 24050-01 (12/97).
- (2) R & D Informational Memorandums: R & D - 97-062, R & D - 97-092.
- (3) Conversion of the above issuances will take place upon receipt of this handbook.

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## DISTRIBUTION

RMA Deputy Administrators, Directors, Washington, D.C. and Kansas City; RMA Regional Service and Risk Compliance Offices; National Appeals Division (NAD); Reinsured Companies, and National Crop Insurance Services (NCIS).

### 3 DEFINITIONS FOR INELIGIBILITY ADMINISTRATION AND ITS

The following definitions are applicable to this handbook and the administration of ineligibility and the ITS.

Act - The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.).

Actively engaged in farming - Means a person who, in return for a share of profits and losses, makes a contribution to the production of an insurable crop in the form of capital, equipment, land, personal labor, or personal management.

Applicant - A person who has submitted an application for crop insurance coverage under the Act.

Authorized person - Any current or past officer, employee, elected official, general agent, agent, contractor, or loss adjuster of FCIC, the insurance provider, or any other government agency whose duties require access to the Ineligible Tracking System to administer the Act.

CAT - The catastrophic risk protection plan of insurance.

Controlled substance - Any prohibited drug-producing plants including, but not limited to, cacti of the genus (*lophophora*), coca bushes (*erythroxylum coca*), marijuana (*cannabis sativa*), opium poppies (*papaver somniferum*), and other drug-producing plants, the planting and harvesting of which is prohibited by Federal or state law.

Debt - An amount of money which has been determined by an appropriate agency official to be owed, by any person, to FCIC or an insurance provider under any program administered under the Act based on evidence submitted by the insurance provider. The debt may have arisen from an overpayment, premium non-payment, **administrative fee non-payment**, interest, penalties, or other causes. **Beginning July 1, 1998, the ITS will include administrative fees. These fees are eligible as debts beginning with the 1998 crop year for raisins, the 1999 crop year for Arizona-California and Texas citrus, and the 1999 crop year for all other crops. (See M-13 for instructions)**

**Note: Under a transfer of right to indemnity the requirement to pay premium and administrative fees applies to both the transferor and transferee.**

Debtor - A person who owes a debt and that debt is delinquent.

Delinquent debt - Any debt owed to FCIC or the insurance provider, that arises under any program administered under the authority of the Act, that has not been paid by the termination date specified in the applicable contract of insurance, or other due date for payment contained in any other agreement or notification of indebtedness, or any overdue debt owed to FCIC or the insurance provider which is the subject of a scheduled installment payment agreement which the debtor has failed to satisfy under the terms of such agreement. Such debt may include any accrued interest, penalty, and administrative charges for which demand for repayment has been made, or unpaid premium including

any accrued interest, penalty and administrative charges (7 CFR 400.116). A delinquent debt does not include debts discharged in bankruptcy and other debts which are legally barred from collection.

EIN - An Employer Identification Number as required under section 6109 of the Internal Revenue Code of 1986.

FCIC - The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture.

FSA - The Farm Service Agency or a successor agency.

Ineligible person - A person who is denied participation in any program administered by FCIC under the Act.

Insurance provider - A reinsured company providing crop insurance coverage to producers participating in any Federal crop insurance program administered under the Act.

Minor - Any person under 18 years of age. Court proceedings conferring majority on an individual under 18 years of age will result in such persons no longer being considered as a minor.

Person - An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, political subdivision, or an agency of a State.

Policyholder - An applicant whose properly completed application for insurance under the crop insurance program has been accepted by FCIC or an insurance provider.

Reinsurance agreement - An agreement between two parties by which an insurer cedes to a reinsurer certain liabilities arising from the insurer's sale of insurance policies.

Reinsured company - A private insurance company having a Standard Reinsurance Agreement, or other reinsurance agreement, with FCIC, whose crop insurance policies are approved and reinsured by FCIC.

Scheduled installment payment agreement - An agreement between a person and FCIC or the insurance provider to satisfy financial obligations of the person under conditions which modify the terms of the original debt.

Settlement - An agreement between a person and FCIC or the insurance provider to resolve a dispute arising from a debt or other administrative determination.

SSN - An individual's Social Security Number as required under section 6109 of the Internal Revenue Code of 1986.

Standard Reinsurance Agreement (SRA) - The primary reinsurance agreement between the reinsured company and FCIC.

Substantial beneficial interest - An interest held by any person of at least 10 percent or more in the applicant or policyholder.

System of records - Records established and maintained by FCIC and FSA containing SSN or EIN data, name, address, city and State, applicable policy numbers, and other information related to Federal crop programs as required by FCIC, from which information is retrieved by a personal identifier including the SSN, EIN, name, or other unique identifier of a person.

#### **4 INELIGIBLE TRACKING SYSTEM (ITS)**

The ITS is a system designed to identify producers who are ineligible to participate in any program administered by FCIC under the Federal Crop Insurance Act (Act), as amended, including the catastrophic risk protection (CAT), limited coverage and additional coverage programs and private insurance products authorized under 508(h) of the Act and reinsured by FCIC. Affected persons will be provided an opportunity to resolve or dispute a delinquent debt, or to contest the findings of an administrative proceeding, before a determination of ineligibility will be made by FCIC. These include reconsideration, mediation, appeal rights (for Federal and reinsured policies), and arbitration (for reinsured policies, if provided for in the applicable policy).

#### **5 CRITERIA FOR INELIGIBILITY**

A person shall be determined to be ineligible to participate in all crop insurance programs insured or reinsured by FCIC if the person meets one or more of the following criteria:

- A Has a delinquent debt with FCIC or a reinsured company (including the agent of a reinsured company).
  - (1) A delinquent debt is limited to a debt arising from crop insurance programs under the Act which:
    - (a) is not paid by the termination date or other due dates contained in an agreement or other notification,
    - (b) must be verifiable, and
    - (c) may be from crop years prior to the effective date of 7 CFR part 400, Subpart U.
  - (2) A delinquent debt does not include:

- (a) CAT administrative fees through the 1998 crop year for all crops , except raisins, 1997 crop year, and Arizona, California and Texas citrus 1999 crop year,
  - (b) a debt of a policyholder who has filed bankruptcy and the debt is subsequently discharged in bankruptcy, or
  - (c) a debt which is not legally collectible.
- B Has been convicted of violating the controlled substance provisions of the Food Security Act of 1985, as amended.
- C Is disqualified under section 506(n) of the Act and 7 CFR part 400, Subpart R.

## 6 DETERMINATION AND NOTIFICATION OF INELIGIBILITY

Any person certified to FCIC as having met any of the criteria for ineligibility in accordance with 7 CFR part 400, Subpart U, 7 CFR part 457, and this procedure will be identified as ineligible by FCIC.

- A A person must be given notice and an opportunity for review through mediation, reconsideration, appeal, or arbitration, as applicable, **BEFORE** FCIC may take any action to issue a Notice of Ineligibility and add the person to ITS:
- (1) For disqualification and controlled substance violations, there are no notice or review requirements under Subpart U, and this procedure which must be met before an ineligibility determination can be made.
  - (2) For debt, a notice must be provided to the person prior to the termination date. The Notice of Debt (see Exhibit 1) will advise the person:
    - (a) of the current amount of debt owed,
    - (b) that if the debt is not paid or a scheduled installment payment agreement is not approved by the termination date, the policy will terminate,
    - (c) that the person will be ineligible for the next crop year for any crop on which the termination date has not passed and on all crops in subsequent crop years until eligibility is reinstated, and
    - (d) that the person will be certified as a debtor for ineligibility purposes.
  - (3) The person will be allowed 30 days from the date of notification to challenge the debt and to request a review according to the terms of the policy. Any challenge to debt

must be resolved in accordance with the policy and applicable regulations before the policyholder data is submitted to ITS for the purpose of **identifying** the person as ineligible.

- (4) All documentation and evidence supporting the delinquent debt will be maintained by the reinsured company. Such documentation and evidence will be made available to FCIC on request (see section 12 A(6) and (7)).
- B** Submitting electronic records to ITS **is the company's CERTIFICATION** that all requirements under these procedures have been met (see Manual 13 for Type 60 record requirements).
- C** Upon receipt of a certification of a debtor, disqualification, or a controlled substance violation, FCIC will take the following actions:
- (1) verify that the person has met one or more of the criteria for ineligibility,
  - (2) request supporting documentation, if needed (see section 12 A(6)), and
  - (3) issue a Notice of Ineligibility to the person (and the notifying company, if ineligibility is for delinquent debt) at the person's last known address. Individual members of an ineligible partnership are ineligible and will also be notified. The Notice of Ineligibility (see Exhibits 5-8) will:
    - (a) list the criteria upon which ineligibility has been based,
    - (b) contain a brief statement of the facts to support **ineligibility**,
    - (c) state the time period of ineligibility,
    - (d) advise the person of the right to appeal the ineligibility (see section 7), and
    - (e) advise the person that any policyholder entity in which he or she has a substantial beneficial interest (SBI) will be affected by having the premium and coverage reduced by the amount of the ineligible person's interest in that policy.

NOTE: Failure to receive the Notice of Ineligibility by the person does not limit the enforcement of ineligibility.

## 7 RECONSIDERATION AND APPEALS

### A **BEFORE** a person is listed as ineligible by FCIC:

(1) FCIC debt:

A person may contest a debt by requesting reconsideration to FCIC or mediation from an appropriate mediation service, or submitting an appeal to the National Appeals Division (NAD). Provisions contained in 7 CFR part 11 will apply.

(2) Reinsured debt:

(a) If the debt is a reinsured company policy debt and the person disputes the debt, the person may submit a request for a review to the reinsured company or seek arbitration (if permitted by the policy).

(b) Reinsured company decisions cannot be appealed to NAD.

(3) Disqualification and controlled substance violations:

(a) Disqualification determined under separate administrative proceedings and regulations may be contested during those proceedings by requesting reconsideration to FCIC or mediation from an appropriate mediation service, or submitting an appeal to the NAD. Provisions contained in 7 CFR part 11, will apply. Determinations establishing a controlled substance violation are the result of judicial action and may not be reviewed under part 11.

(b) Administrative review of determinations establishing disqualification or controlled substance violations do not apply under 7 CFR part 400, Subpart U and this procedure.

### B **AFTER** a person is listed as ineligible by FCIC:

(1) If the person believes FCIC **has listed them incorrectly because of an erroneous identification**, the person may submit an appeal to NAD. The person may be an FCIC or reinsured company policyholder.

(2) Any appeal of ineligibility must be submitted to NAD within 30 days of the date of receipt of the Notice of Ineligibility.

(3) A **person who is listed as ineligible cannot** appeal to NAD contesting ineligibility based on debt. Any challenge to debt must be made under subsection A.

- (4) **Ineligibility which is** based on a conviction for a controlled substance violation or disqualification **cannot be appealed to NAD.**
- C A request for mediation, appeal, or arbitration does not impact or delay **being listed as ineligible and the issuance of a** Notice of Ineligibility. However, if an appeal is granted based on an erroneous identification or if a delinquent debt is reversed under binding arbitration, eligibility will be reinstated effective with the beginning of the crop year insurance coverage was denied due to **being listed as ineligible.** The person will be entitled to all applicable insurance benefits for any affected crop.
- D All policy provisions and responsibilities of the person and company will apply pending resolution of the appeal or binding arbitration. No payment or indemnity may be made unless the eligibility is reinstated.
- E See sections 12A(3) and B(4) for FCIC and reinsured company responsibilities regarding item C above.

## 8 EFFECT OF INELIGIBILITY

- A The effect of ineligibility is to deny reinsurance, premium subsidies, and any other benefits under the Act for persons meeting any of the three ineligibility criteria.
- B All persons submitting an application or who are currently insured under the Act are subject to verification of their eligibility status each crop year.
- C This procedure and 7 CFR part 400, Subpart U, will not affect a person's eligibility prior to the effective date of Subpart U or the effective date of ineligibility. However, a person's eligibility subsequent to these dates will be affected.
- D A person with a delinquent debt from any crop year prior to the effective date of Subpart U is subject to ineligibility determinations as stated in these procedures. The debtor must be certified to ITS (section 12 A) once regulatory and procedural requirements are met.
- E Ineligibility is effective for the person on the:
- (1) crop termination date for the crop (hereafter referred to as termination date):
- (a) terminated for an unpaid premium **or administrative fee** debt,
- (b) **in which the bankruptcy is dismissed for cause during the crop year.**

**NOTE: The dismissal of a bankruptcy petition will cause the person to be ineligible effective for the crop year in which it is dismissed and the date of ineligibility will be the earliest applicable crop(s) termination date.**

- (2) the earliest termination date applicable under any policy for a person convicted of a controlled substance violation,
- (3) due date of a scheduled installment payment agreement on which the payment is not made,
- (4) date an overpayment becomes delinquent, or
- (5) date specified in a notification of disqualification.

**NOTE: If the termination date specified falls on a holiday or weekend, the next business day will apply.**

The applicable date for ineligibility applies to the person, not to the specific crop to which the delinquent debt, controlled substance violation, or disqualification pertains. However, program benefits may not cease immediately for all insured crops.

Benefits will continue for any crop for which the termination date is prior to the date of ineligibility and will continue to the end of the insurance period for that crop. Benefits will be denied for such crop on the next termination date for that crop **provided eligibility has not been reinstated**. (Exception: Benefits are denied **immediately** for a producer convicted of controlled substance violations or **whose petition for bankruptcy is dismissed for cause during the crop year** effective with the crop year of conviction or dismissal irrespective of any applicable crop termination date.) Benefits will be denied immediately for any insured crop for which the termination date has not passed prior to the date of ineligibility, and includes any prevented planting coverage applicable for a person insured the previous crop year.

**EXAMPLE 1:** Calvin insures his 1997 wheat and corn. When the company transmits data to FCIC for fall wheat on October 15, 1997, the policyholder is determined eligible for 1998 wheat coverage. Calvin fails to pay the premium for 1997 corn and is terminated March 15, 1998. The company transmits to ITS a Type 60 record certifying Calvin as a debtor for corn on March 21, 1998. A Notice of Ineligibility is mailed to Calvin and his name is added to ITS. The effective date of ineligibility is the March 15 termination date. Insurance data for any crop with a termination of March 15, 1998, or later, will be rejected by DAS. All insurance data for the 1998 wheat will be accepted. Calvin will be ineligible for wheat coverage beginning with the 1999 crop year and corn coverage beginning with the 1998 crop year.

**EXAMPLE 2:** Norbert owes an insurance company for 1997 corn and is terminated March 15, 1998. Norbert submits an application for insurance for 1998 corn with another insurance company on March 15, 1998, and Type 10 and Type 14 records are transmitted on April 1, 1998, and are accepted by DAS. A Type 60 record certifying Norbert as a debtor is transmitted to the ITS on April 15, 1998 and Norbert is added to ITS. The company submits the Type 11 data on June 15, 1998 which is rejected because of the ineligible status.

All previously submitted data accepted by DAS for affected crops must be deleted (see section 12 A(4)). **The application is rejected by the company in accordance with the provisions of the policy and any payments of indemnities made prior to rejecting the application must be repaid.**

F The time period for ineligibility for:

- (1) delinquent debt is from the date ineligibility is effective until the debt is paid, **bankruptcy is filed or the debt** is discharged in a bankruptcy proceeding, or a scheduled installment payment agreement is approved,
- (2) a controlled substance violation is for the crop year of conviction and the four subsequent consecutive crop years, or
- (3) disqualification is from the date the order of disqualification is signed until the period specified in the order has expired. This period may vary based on coverage plan (CAT, limited, or additional).

**NOTE: In the event bankruptcy is dismissed for cause, or disqualification occurs as a result of concealment, misrepresentation, or fraud, or a controlled substance violation, the policy will be declared void by the insurance provider immediately for that crop year and terminated effective on the past crop termination date. The insurance provider may retain 20% of collected premium to offset costs incurred to service the policy as the result of disqualification.**

When a specific time limit is set for ineligibility (for example, a controlled substance violation), ITS will automatically remove the person from ITS at the end of the time limit.

G The ineligibility of a general partnership applies to the individual members of the general partnership.

H Individual members (substantial beneficial interest holders) of a corporation or other business entity (excluding general partnerships) are not individually ineligible based on the ineligibility of the corporation or other business entity.

I **The transferor and transferee under the transfer of right to indemnity are responsible for payment of the premium and administrative fees. Both will be ineligible if either amount is not paid by the applicable termination date.**

J The spouse and minor children of an individual are considered to be the same as the individual except:

- (1) A spouse may be considered a separate person if the spouse is actively engaged in a separate and distinct farming operation. Transfers of interest between spouses within the farming operation will not be considered a separate farming operation.

- (2) A minor child who is actively engaged in a separate farming operation will be a separate person with respect to the separate farming operation if the:
- (a) parent or other entity in which the parent has a substantial beneficial interest does not have any interest in the minor's separate farming operation or in any production from such operation,
  - (b) minor has established and maintains a separate household from the parent,
  - (c) minor personally carries out the farming activities with respect to the minor's farming operation, and
  - (d) minor establishes separate accounting and recordkeeping for the minor's farming operation.

An individual shall be considered to be a minor until the age of 18 is reached, unless Court proceedings confer majority status on an individual under 18 years of age.

- K If an ineligible person (including individual members of a general partnership) is the sole insured, the data for the applicant or policyholder will be rejected by the Data Acceptance System (DAS).
- L If an applicant or policyholder is a corporation, general partnership, or other business entity, and an ineligible person, including an ineligible general partnership or its individual members, has a substantial beneficial interest in the applicant or policyholder, the data for the applicant or policyholder will be rejected by DAS. The ineligible person must be removed from the data for the applicant or policyholder and the insured interest of the policyholder or applicant remaining must be reduced by the percent of interest held by the ineligible person. The revised policy or application may be resubmitted to DAS for processing.

EXAMPLE: A partnership is composed of three individuals named Bob, George, and Tyron. The data from an application is transmitted and rejected by DAS because Tyron is individually listed as a debtor in the ineligible file. The company removes Tyron from the data submitted and retransmits, reducing the insured interest of the partnership to the interest of Bob and George.

Bob and George may be a part of other insured entities or hold individual policies insuring crops that they individually own. Tyron is ineligible and must have any individual policy terminated and be removed from any policy with another entity type.

- M If the applicant or policyholder is a corporation, general partnership, or other business entity that was created to conceal the interest of a person in the farming operation to evade the ineligibility determination of a person with a substantial beneficial interest in the applicant or policyholder, the application or policy will be processed as described in K above.
- N If it is determined that a trust or estate is managed, operated by an executor, or administered by a person who is ineligible, that person's ineligibility will not affect eligibility of the trust or estate. The trust or estate is a separate entity and those that manage, operate, or administer have no immediate interest.
- O Policyholders who sign a scheduled installment payment agreement with the company are eligible for crop insurance. Insurance coverage is available in accordance with the policy. In the event the policyholder defaults on a payment, ineligibility is established effective on the date the payment was due and each crop policy will be terminated on the next termination date applicable to the crop provided the debt is not resolved prior to any such date and eligibility is reinstated.

EXAMPLE: A policyholder is indebted and the insurance company offers a payment agreement as a means to settle the debt. The agreement is completed March 1 and a new application is completed by March 15, the sales closing date for corn and soybeans. In September, the policyholder fails to make the required installment payment specified by the payment agreement. Ineligibility is established on the date the payment was due. The corn and soybean policies will be terminated on their respective termination dates for the next crop year and any new application for a new crop will be rejected if the debt is not resolved prior to termination or sales closing date, whichever is applicable.

## 9 REINSTATEMENT OF ELIGIBILITY

- A Eligibility may be reinstated:
- (1) on the date the delinquent debt is paid or **bankruptcy is filed**, or a scheduled installment payment agreement is approved by FCIC or the reinsured company, as applicable,
  - (2) for the fifth consecutive crop year following the crop year of conviction for a controlled substance violation,
  - (3) after the period contained in an order of disqualification has ended and the payment of all applicable penalties and overpayments have been made,
  - (4) if the person should not have been made ineligible (the result of a NAD determination that the person was erroneously identified or a binding arbitration decision reversing a delinquent debt determination). Insurance coverage will be reinstated effective with

the beginning of the crop year for affected crops which were rejected due to the determination of ineligibility.

- B Following the reinstatement of eligibility, for any reason other than erroneous identification or arbitration (see (4) above), the person may obtain insurance coverage only by submitting a new application **for any crop that was terminated or any new crop**. Application for insurance coverage must be made by the applicable sales closing for each crop to be insured. When reinstatement of eligibility occurs after the applicable crop sales closing date for the crop year, the person may not participate in that crop program until the following crop year. **A policy cannot be reinstated for the crop year if the payment is made any time after sales closing for the crops.**
- C Reinstatement of eligibility under an approved scheduled installment payment agreement requires the person to make all payments in accordance with the agreement. Failing to comply with the agreement will result in an immediate determination of ineligibility and does not require notification under section 6 A or another Notice of Ineligibility. The effective date of ineligibility will be the scheduled due date on which the payment was not made. Denial of benefits will be established as provided in section 8 E.

## 10 CLAIM PENDING

- A A policyholder may have a claim for an indemnity pending at the time of the termination date. A pending claim does not affect the obligation of the policyholder to pay the premium by the termination date to maintain eligibility for crop insurance coverage.
- B The company will terminate insurance coverage on the termination date on the basis that the premium is delinquent without regard to a pending indemnity.
- C When an indemnity claim that was signed the by insured producer prior to the crop termination date and satisfies the outstanding insurance debt:
- (1) eligibility will be reinstated effective with the beginning of the crop year and,
  - (2) crop insurance coverage for any crop terminated under B will remain in effect for the crop year.

NOTE: The date of payment will be considered the date the claim for indemnity was signed by the insured, therefore no debt existed on the termination date.

**11 ADMINISTRATION AND MAINTENANCE**

- A FCIC, Kansas City Office, will maintain ineligible producer data in a system of records in accordance with the Privacy Act and 7 CFR part 400, Subparts Q and U. This system contains identifying information of the ineligible person including, but not limited to:
- (1) name,
  - (2) address,
  - (3) telephone number,
  - (4) SSN and/or EIN,
  - (5) reason for ineligibility, and
  - (6) time period for ineligibility.
- B Information within the system may be used by:
- (1) Federal agencies,
  - (2) FCIC and FSA employees,
  - (3) contractors, and
  - (4) reinsured companies and their personnel who require such information in the performance of their duties in connection with any program administered under the Act.
- C The information may be furnished to other users including, but not limited to:
- (1) FCIC contracted agencies,
  - (2) credit reporting agencies and collection agencies,
  - (3) in response to judicial orders in the course of litigation, and
  - (4) other users as may be appropriate or required by law or regulation.
- D The individual data will be made available through an FCIC inquiry system to ITS or electronic files for use in administering the crop insurance program according to applicable statutes and regulations. Such information must be protected from unauthorized disclosure.

Unauthorized use or disclosure of information contained in ITS by authorized persons may result in regulatory or statutory penalties. (See 7 CFR part 400, Subpart Q.)

- E All persons applying for or renewing crop insurance policies issued or reinsured by FCIC will be subject to validation of their eligibility status using ITS. Applications or benefits approved and accepted are considered approved or accepted subject to review of eligibility status.

## 12 RESPONSIBILITIES

A Reinsured Companies must:

- (1) provide notification of debt to the person prior to the termination date for the indebted crop (see Exhibit 10 for minimum notification time periods),
- (2) meet all requirements of section 6 A prior to certifying a debtor to ITS,
- (3) **transmit a Type 60 Record to ITS certifying a debtor (within 7 days after the applicable ineligibility date (see section 8 E, and, if possible, but not later than 21 days after such date) for affected persons including all substantial beneficial interest holders for general partnerships.**

**Note: Ineligible transferees and transferors (under transfer of right to indemnity) are both transmitted and certified in the same manner as other policy debtors.**

**FAILURE TO TIMELY CERTIFY DEBTORS IN ACCORDANCE WITH THESE PROCEDURES MAY RESULT IN A DELAY IN DENYING PROGRAM BENEFITS TO THE PERSON. ANY REINSURED COMPANY FAILING TO MEET THE CERTIFICATION REQUIREMENTS OF THESE PROCEDURES WILL BE SUBJECT TO APPLICABLE PROVISIONS CONTAINED IN THE STANDARD REINSURANCE AGREEMENT.**

Note: Days are calendar days. The next business day will apply if the last day falls on a weekend or holiday.

The Type 60 Record will be used to:

- (a) initially establish ineligibility,
- (b) reestablish eligibility by resolution of the delinquent debt (through full payment, a bankruptcy **filing**, approval of a scheduled installment payment agreement, a binding arbitration decision reversing the debt, or a favorable appeal decision), or

- (c) reestablish ineligibility if the person fails to complete payments under a scheduled installment payment agreement (see section 8 C).

**Type 60 Records for items 3(b) and (c) above must be submitted to ITS within 7 days (if possible, but no later than 21 days) after the date of a resolution of the delinquent debt, or the failure to make payments under a payment agreement,**

- (4) delete any incorrect Type 60 Record within 7 days of initial transmission. Any deletions required after 7 days must be submitted with documentation to the Fiscal Operations Branch.
- (5) submit a Type 49 record deleting any policyholder data submitted prior to a determination of ineligibility effective for the current crop year,
- (6) verify the eligibility status of applicants and policyholders,
- (7) send documentation and evidence of the person's delinquent debt and documentation related to the notification of debt to FCIC, Fiscal Operations Branch, **upon request**. These may include:
  - (a) the application, acreage reports, claims, and all correspondence,
  - (b) billing statements,
  - (c) demand letters,
  - (d) responses to demand letters, and
  - (e) Notice of Debt,
- (8) maintain supporting documentation regarding a determination of delinquent debt or its resolution, or reversal through a binding arbitration decision for a period of three years from the date of each determination,
- (9) notify FCIC of suspected controlled substance violations and suspected cases of fraud, misrepresentation, or use of a material scheme or device relating to a policyholder's insurance contract. Such notification will be provided to the Compliance Office for the area, and
- (10) maintain security of data files, records and reports in accordance with the Privacy Act and 7 CFR part 400, Subpart Q.

**B FCIC Fiscal Operations Branch (FOB) shall:**

- (1) maintain ITS,

- (2) validate ineligibility criteria are met,
- (3) generate, review, and distribute Notices of Ineligibility,
- (4) administer appeals including:
  - (a) updating ITS with appropriate case number information whenever a person files a request for an appeal relating to being placed on the ITS, and
  - (b) updating ITS with appropriate data indicating eligible or ineligible status at the completion of the appeal,
- (5) provide a Notice of Debt to FCIC “direct business” debtors and certify and maintain ITS records for FCIC “direct business” debtors, persons convicted of controlled substance violations or disqualified. **Transmission requirements are the same as for reinsured companies. All ineligibility dates contained in section 7 E apply for purposes of this item, except E(2).** Records certifying a controlled substance violation will be transmitted no later than 21 days after the date FCIC determines a controlled substance violation is applicable,
- (6) maintain reinsured company records which are requested by FCIC and submitted as documentation and evidence of delinquent debt as related to a Notice of Ineligibility.

C Product Development Division shall:

- (1) revise 7 CFR part 400, Subpart U as appropriate,
- (2) update the ITS handbook, and
- (3) provide assistance regarding Subpart U and this procedure.

D FCIC Risk Compliance Division shall:

- (1) review and validate a company's policyholder files to determine that the provisions of Subpart U and this procedure were followed, and
- (2) notify appropriate authorities regarding suspected controlled substance violations (including FSA), and cases of suspected fraud, misrepresentation, and use of a material scheme or device.

E FCIC Actuarial Division shall:

- (1) develop, test, and maintain the record descriptors, database, and data processing requirements and programming for ITS,

- (2) assure ITS is properly defined in the System of Records,
- (3) assure proper security is maintained for access to the database,
- (4) prepare reports as requested,
- (5) amend FCIC-M13 to reflect ITS requirements,
- (6) modify Data Acceptance System (DAS) processing to provide for eligibility edits,
- (7) provide assistance to reinsured companies, FCIC offices, and others, as needed, and
- (8) transmit ineligible producer file to reinsured companies.

## **EXHIBITS DISCLAIMER**

The letters contained in Exhibits 6, 7, 8, and 9 are to be used exclusively by FCIC in the Notice of Ineligibility.

The letters contained in Exhibits 1, 2, 3, 4, and 5 (the Payment Agreement) are provided by FCIC AS A GUIDE FOR REINSURED COMPANIES in the development of the letters and payment agreements used in debt notification and resolution. These letters and payment agreement should BE REVIEWED BY THE REINSURED COMPANY TO DETERMINE IF THEY ARE ADEQUATE FOR THE COMPANY'S PURPOSES AND MODIFIED AS NECESSARY.

**EXHIBIT 1**  
**PRE-TERMINATION NOTICE OF DEBT**  
**(For all debts except Cat fees)**  
**(Company Letterhead)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Policy Number: \_\_\_\_\_

The enclosed billing states the amount of premium, interest, administrative fees and/or other related charges which are unpaid according to our records. Also included on the billing is the termination date as stated in your policy. **IF YOUR PAYMENT WAS RECENTLY MADE, PLEASE DISREGARD THE REMAINDER OF THIS LETTER.**

The regulations governing your crop insurance policy provide you and (Company name) (Company) with certain rights prior to determining that the debt is past due.

1. You have the right to a complete explanation of this debt, to inspect and copy Company records related to the debt, to dispute any information in the Company's records pertaining to the debt, and to an administrative review if you believe this is not a correct billing.
2. You may make arrangements to enter into a written repayment agreement on terms acceptable to you and the Company, if a review of your financial position supports your statement that you are unable to pay the debt in full. Requests for a repayment agreement should be sent to this office at the above address.
3. The Federal Crop Insurance Corporation (FCIC) compiles a list of persons who have been found ineligible for participation in the crop insurance program because of non-payment of premium, overpaid indemnity, administrative fees or other related charges. The ineligible list will be used by FCIC and distributed to all crop insurance companies reinsured by FCIC. If this debt is not paid by the crop termination date, your name will be placed on the list and future insurance coverage will be denied.

A request for review of your account must be in writing, must state the basis of your belief the billing is incorrect and must be received within 30 days of the date of this notice. The request should be addressed to:  
(Company name and address) .

We appreciate your business and if you have any questions, please contact your agent.

Sincerely,

Enclosure

**EXHIBIT 2**  
**PRE-TERMINATION NOTICE OF DEBT**  
**(Used for CAT fees only)**  
**(Company Letterhead)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Policy Number: \_\_\_\_\_

According to our records, you have not paid crop year administrative fees in the amount of \$ \_\_\_\_\_ under the above referenced policy number. The crop termination date, Is stated in your policy, is (date) .  
**IF YOUR PAYMENT WAS RECENTLY MADE, PLEASE DISREGARD THE REMAINDER OF THIS LETTER.**

The regulations governing your crop insurance policy provide you and (Company name) (Company) with certain rights prior to determining that the debt is past due.

1. You have the right to a complete explanation of this debt, to inspect and copy our records related to the debt, to dispute any information in our records pertaining to the debt, and to an administrative review if you believe the debt is not correct.
2. You may make arrangements to enter into a written repayment agreement on terms acceptable to you and us, if a review of your financial position supports your statement that you are unable to pay the debt in full. Requests for a repayment agreement should be sent to this office at the above address.
3. The Federal Crop Insurance Corporation (FCIC) compiles a list of persons who have been found ineligible for participation in the crop insurance program because of non-payment of premium, overpaid indemnity, administrative fees or other related charges. The ineligible list will be used by FCIC and distributed to all crop insurance companies reinsured by FCIC. If this debt is not paid by the crop termination date, your name will be placed on the list and future insurance coverage will be denied.

A request for review of your account must be in writing, must state the basis of your belief the debt is incorrect and must be received within 30 days of the date of this notice. The request should be addressed to: \_\_\_\_\_ (Company name and address) . Administrative fees that are not paid by the crop termination date will be referred to FCIC, an agency of the United States Department of Agriculture, for collection.

We appreciate your business and if you have any questions, please contact your agent.

Sincerely,

**EXHIBIT 3  
EXAMPLE OF NOTICE OF OVERPAYMENT**

COMPANY LETTERHEAD

MM/DD/YYYY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We have processed the yyyy corrected crop claim for the unit(s) listed below under contract       
Xxxxxxxx And have determined that you were overpaid \$\_\_\_\_\_

*(Unit #'s)*

*Brief Explanation of Cause of Debt*

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To prevent interest assessment, you must pay the \$\_\_\_\_\_ balance due on this crop within thirty (30) days from the date of this letter. The balance due may include interest paid to you on the original indemnity claim. Please send your check, draft, or money order in the enclosed self-addressed envelope.

You may request that we provide you with a complete explanation of the overpaid indemnity and allow you to inspect and copy records related to the debt. For a detailed explanation or additional information concerning the overpaid indemnity, please contact Company name at the address shown above.

If you do not agree with our decision, you have the following options:

You may seek a review of the decision by filing a written request for review within thirty (30) days from the date of this letter. Your written request must be filed with this office at the address shown above and must be submitted with any information you have regarding our decision. A review does not take the place of or limit your right to arbitration.

If you and we fail to agree on any factual determination, disagreement may be resolved in accordance with the rules of the American Arbitration Association. Your written request for arbitration must be filed with this office at the address shown above within thirty (30) days from the conclusion of the review process.

We appreciate your immediate attention to this matter.

Sincerely,

**EXHIBIT 4  
EXAMPLE OF SECOND NOTICE OF OVERPAYMENT**

(COMPANY LETTERHEAD)

MM/DD/YYYY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You were sent a letter informing you that you were overpaid on contract XX-XXX-XXXXX. As of this date, no payment has been received.

Regulations governing the Federal crop insurance program provide you and the company with certain rights prior to initiating collection action.

1. You have the right to a complete explanation of the overpaid indemnity and to inspect and copy company records related to the overpaid indemnity if you believe the overpaid indemnity is not correct. In our previous letter, you were given notice of your rights relating to the overpaid indemnity.
2. If you are unable to pay the debt, you may consult with a representative of the company about arrangements for a repayment agreement of the overpaid indemnity on terms acceptable to the company. Request for a repayment agreement should be sent to this office at the above address.
3. If applicable, the overpaid indemnity may be referred to a collection agency. In addition, the overpaid indemnity may be referred to credit reporting agencies 60 days from the date of this letter. Information disclosed to credit reporting agencies may include your name, address, tax identification number, and the amount, history and status of your debt to the company.
4. The Federal Crop Insurance Corporation (FCIC) compiles a list of persons who have been found ineligible for program benefits under the Federal Crop Insurance Act (Act) because of non-payment of premium or overpaid indemnity, program or controlled substance violations. The ineligible list will be used by FCIC and distributed to all insurance companies reinsured by FCIC. If this debt is not paid by the next crop termination date, your name will be placed on this list and future program benefits under the Act will be denied.
5. Your ineligibility for Federal crop insurance may cause you to be ineligible for certain other USDA program benefits.

In order to avoid the above collection action, a check, draft, or money order in the amount of \$ \_\_\_\_\_ should be sent to the \_\_\_\_\_ (Company name) \_\_\_\_\_, using the enclosed self-addressed envelope. In addition to monthly interest assessment, a late payment penalty assessment will begin ninety (90) days from the date of this letter. All amounts paid will be applied first to accrued penalty and interest, if applicable, then to the principal balance.

We appreciate your immediate attention to this matter.

Sincerely,

**EXHIBIT 5**  
**EXAMPLE OF NOTICE OF OVERPAYMENT**  
**(USDA/RMA/FCIC)**

I. Was Insured  
Any Street  
Anytown, Anystate xxxxx

Tax Id Number: xxx xx xxxx

Good Insurance Company

The above company has notified this office that you have incurred a debt associated with an overpaid indemnity on a crop reinsured under the Federal Crop Insurance Act (Act). The company states that the debt remains unpaid, you have been notified that the debt is delinquent and have been given the opportunity to dispute the amount and validity of the debt. The delinquent debt must be resolved with the company listed above. Please contact the Good Insurance Company at (xxx) xxx-xxxx.

A provision in the crop insurance policy states that "such unpaid debts will also make you ineligible for any crop insurance provided under the Act until payment is made". On this basis, you will be ineligible for any program benefits under the Act until payment is made, an acceptable repayment agreement is established, or the debt is otherwise resolved with the company.

If you are not the person identified as a debtor, you may appeal your ineligible status by sending a request for appeal to the area supervisor, National Appeals Division (NAD) area office, within 30 days of your receipt of this letter. The NAD address is as follows:

National Appeals Division  
Area Office  
Anytown, Anystate xxxxx

According to 7 CFR 780.2 (A) (3) (II), disputes related to your debt are not appealable to NAD but "...are subject to dispute resolution through arbitration or mediation with the company in accordance with the contract terms".

Any crop insurance policy insuring a farming entity in which you have interest of 10% or more will be affected as the premium and coverage will be reduced by the amount of your share in the policy.

Your ineligibility for Federal Crop Insurance may cause you to be ineligible for certain other USDA program benefits.

Sincerely yours,



EXHIBIT 7  
 NOTICE OF INELIGIBILITY  
 REINSURED COMPANY DEBTORS  
 (Partners of Indebted Partnership)  
 USDA/RMA/FCIC)

I. Was Insured Tax I. D. Number 123 45 6789  
 Any Street  
 Any Town, Anystate xxxxx A Wonderful Insurance Company

The above company has notified this office that you are a partner in the partnership of \_\_\_\_\_ and the partnership has incurred a debt associated with unpaid premium on a crop insurance policy reinsured under the Federal Crop Insurance Act (Act). The company states that the debt remains unpaid, the partnership has been notified that the debt is delinquent, and you have been given the opportunity to dispute the amount and validity of the debt. The delinquent debt must be resolved with the company listed above. Please contact the company at (xxx) xxx-xxxx.

A provision in the crop insurance regulations provides that a delinquent debt for a partnership which is determined ineligible for program benefits under the ACT will also make the individual members of the partnership ineligible until payment is made. On this basis, you will be ineligible for any program benefits under the Act until payment is made, an acceptable repayment agreement is established, or the debt is otherwise resolved with the company.

If you are not the person identified as a partner in this partnership, you may appeal your ineligible status by sending a request to the Area Supervisor, National Appeals Division, (NAD) area office, within 30 days of your receipt of this letter. The NAD address is as follows:

National Appeals Division  
 Area Office  
 Anytown, Anystate xxxxx

According to 7 CFR 780.2 (A) (3) (II), disputes related to your debt are not appealable to NAD but "...are subject to dispute resolution through arbitration or mediation with the company in accordance with the contract".

A crop insurance policy insuring a farming entity in which you have interest of 10% or more will be affected as the premium and coverage will be reduced by the amount of share in the policy.

Your ineligibility for the federal crop insurance benefits may cause you to be ineligible for certain other USDA program benefits.

Sincerely,

**EXHIBIT 8**

**NOTICE OF INELIGIBILITY  
DUE TO CONTROLLED SUBSTANCE VIOLATION**

(USDA/RMA/FCIC LETTERHEAD)

MM/DD/YYYY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This office has been notified that you have been convicted of a controlled substance violation which renders you ineligible for any program benefits under the Federal Crop Insurance Act (Act). On that basis, you will be ineligible for program benefits under the Act for the crop year of conviction and the succeeding four crop years.

If you are not the person that has been convicted of a controlled substance violation, you may appeal your ineligible status by sending a request for appeal to the Area Supervisor, National Appeals Division (NAD), \_\_\_\_\_ Area Office, \_\_\_\_\_, within 30 days of your receipt of this letter.

A crop insurance policy insuring a farming entity in which you have an interest of 10% or more will be affected as the premium and coverage will be reduced by the amount of your share in the policy.

Your ineligibility for Federal crop insurance may cause you to be ineligible for certain other USDA program benefits.

**EXHIBIT 9  
NOTICE OF INELIGIBILITY  
DUE TO DISQUALIFICATION**

(USDA/RMA/FCIC LETTERHEAD)

MM/DD/YYYY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This office has been notified that you have been disqualified under Section 506(n) of the Federal Crop Insurance Act (Act) and 7CFR Part 400 subpart R. On this basis, you will be ineligible for any program benefits under the Act for the \_\_\_\_\_ (specify the period of time).

If you are not the person that has been disqualified, you may appeal your ineligible status by sending a request for appeal to the Area Supervisor, National Appeals Division (NAD), \_\_\_\_\_ Area Office, \_\_\_\_\_, within 30 days of your receipt of this letter.

A crop insurance policy insuring a farming entity in which you have an interest of 10% or more will be affected as the premium and coverage will be reduced by the amount of your share in the policy.

Your ineligibility for Federal crop insurance may cause you to be ineligible for certain other USDA program benefits.

**EXHIBIT 10**  
**DEBT NOTIFICATION TIME PERIODS**

Crops	Days Notified Prior to Termination Date
Forage Seeding	15 days
All Other Crops	30 days

NOTE:

The Notice of Debt describes various options available to the policyholder in the event of a dispute or disagreement that affects payment of the premium and provides information concerning the consequences of not paying the premium. The dates for issuance of the Notices of Debt follow after the billing date.

Termination dates will not be extended to accommodate any late payments.