

SUBCHAPTER B—FARM MARKETING QUOTAS, ACREAGE ALLOTMENTS, AND PRODUCTION ADJUSTMENT

PART 711—MARKETING QUOTA REVIEW REGULATIONS

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§711.1 Effective date.

The Marketing Quota Review Regulations (26 FR 10204, 27 FR 4831, 6539, 28 FR 3913, 31 FR 4271, 5663, 32 FR 15704) shall remain in effect and shall apply to all actions and proceedings taken prior to October 15, 1970, and such regulations are superseded as of midnight, October 14, 1970. The provisions of §§711.1 to 711.50 are effective October 15, 1970.

§711.2 Expiration of time limitations.

The provisions of part 720 of this chapter concerning the expiration of time limitations shall apply to this part.

§711.3 Definitions.

(a) *General terms.* In determining the meaning of the provisions of this part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The definitions in part 719 of this chapter shall apply to this part.

(b) *Act.* Act means the Agricultural Adjustment Act of 1938, and any amendments or supplements thereto.

(c) *Applicant.* Applicant means the farmer who filed an application for review of a farm marketing quota and if a hearing involves the quota of a farm resulting from the reconstitution by division of a parent farm, the farm operator of each farm resulting from such reconstitution shall be considered an applicant for purposes of this part.

(d) *Clerk.* Clerk means the county executive director for the county in which the application for review is filed unless another employee of the county or State office is designated by the State executive director to serve as clerk to the review committee.

(e) *Review committee.* Review committee means three farmers designated

to review a quota by the State executive director from the panel of farmers appointed by the Secretary under section 363 of the Act.

(f) *Quota*. Quota means the farm marketing quota established under the Act for a farm during a year in which quotas are approved in the national referendum for a commodity, including any of the following factors:

(1) Farm acreage allotment, farm marketing quota, and any adjustments in such allotment and quota resulting from: (i) Program violations; (ii) lease and transfer; (iii) sale and purchase; (iv) overmarketing and undermarketing; (v) release and reapportionment; (vi) eminent domain transactions; and (vii) forfeiture and reallocation.

(2) Farm preliminary yield, farm normal yield and farm yield.

(3) A determination of the land constituting a farm for which a farm acreage allotment or farm marketing quota is established, including the following: (i) Land devoted to nonagricultural use, (ii) land used for agricultural purposes, (iii) cropland acreage; and (iv) tillable cropland.

(4) Acreage planted to the commodity on the farm.

(5) Actual production for the farm.

(6) Farm marketing excess (acres or pounds).

(7) Marketing quota penalties, including but not limited to, assessments for marketing quota violations involving: (i) False identification, (ii) failure to account for production and disposition, (iii) failure to file a report, and (iv) the filing of a false report.

(Secs. 301, 363-368, 371, 374, 375, 379, 52 Stat. 38 as amended, 63-64, as amended, 66, as amended; 7 U.S.C. 1301, 1363-1368, 1375)

[35 FR 15355, Oct. 2, 1970, as amended by Amdt. 9, 45 FR 37398, June 3, 1980; 49 FR 38240, Sept. 28, 1984]

§ 711.4 Forms.

The following general forms, as revised from time to time, are prescribed for use in connection with review proceedings;

(a) MQ-53 Application for Review of Farm Marketing Quota.

(b) MQ-54 Notice of Untimely Filing of Review Application.

(c) MQ-56 Notice of Hearing of Review Application.

(d) MQ-58 Determination of Review Committee Farm Marketing Quota.

(e) MQ-59 Oath of Review Committeeman.

§ 711.5 Public information.

The clerk shall maintain a record of applications and review committee proceedings which shall be available at the office of the clerk for public inspection and copying in accordance with part 798 of this chapter.

REVIEW COMMITTEE

§ 711.6 Eligibility as member of a panel.

Any farmer who meets the eligibility requirements for county committeeman prescribed in the regulations in part 7 of subtitle A of this title, as amended, in a county within the area of venue for which he is to be appointed shall be eligible for appointment as a member of a review committee panel for such area of venue. If the area of venue consists of only one county or a part of a county, these eligibility requirements must be met in such county or in a nearby county. No farmer whose legal residence is in one State shall be eligible for appointment as a member of a review committee panel for an area of venue in another State.

§ 711.7 Appointment of members of a panel.

The Secretary shall appoint six or more eligible farmers to serve as members of a review committee panel in each area of venue. Notice of appointment shall be sent to the State committee, which shall notify the farmers so appointed. Appointments may be made before, during, or after the period in which applications for review of quotas are required to be filed. Notwithstanding the foregoing, the Secretary shall have the continuing power to revoke or suspend any appointment made pursuant to the regulations in this part, and subject to the provisions of the act, to make such other appointment deemed proper.

§ 711.8 Oath of office.

Each farmer appointed to serve as a member of a review committee panel shall, as soon as possible after appointment, execute an oath of office on such form as may be prescribed by the Deputy Administrator, duly subscribed and sworn to or affirmed before a notary public. No farmer shall serve on a review committee unless such oath of office has been duly executed and filed with the State executive director or the clerk. A farmer appointed for consecutive terms to serve as a member of a review committee panel shall not be required to file a new oath of office after the original filing. If the form of oath of office is materially changed, a new oath of office shall be executed if required by the Deputy Administrator.

§ 711.9 Composition of review committee.

(a) *Three designated members from the panel constitute a review committee.* Three members from the panel shall act as a review committee to hear applications for review for the prescribed area of venue. The State executive director shall designate from the panel of members for the prescribed area of venue three members who shall act as a review committee to hear specific applications and shall designate one of these three members as chairman of the review committee and another member as vice-chairman. Where the number of applications pending require two or more review committees for prompt disposition of such applications, the State executive director shall designate the members of each review committee, the chairman and vice chairman thereof, and the specific application to be heard by each review committee. Two or more review committees may hear applications concurrently in an area of venue. In the absence of the chairman, the vice chairman shall perform the duties and exercise the powers of the chairman. The State executive director shall notify members of each review committee of the schedule of hearings. No member shall serve in any case in which a quota will be reviewed for a farm in which such member, any of his relatives or business associates, is interested, nor shall any member serve

where he had acted as State, county, or community committee member on a quota to be reviewed by the review committee.

(b) *Only two members present to commence hearing.* Where only two members of a review committee are present to commence a hearing, although three members were scheduled to hear the application, at the request of or with the consent of the applicant in writing, a hearing conducted by two members of the review committee shall be deemed to be a regular hearing of the review committee as to such application. The determination made by such members shall constitute the determination of the review committee. In the event such members cannot agree upon a determination, such fact shall be set forth in writing and a new hearing scheduled by the State executive director. If the applicant does not consent in writing to a hearing conducted by two members of the review committee, the hearing shall be rescheduled.

(c) *Only two members remain to complete a hearing.* Where only two members of a review committee remain to complete a hearing commenced with three members, due to serious illness, death, or other cause which prevents one of the members from completing the hearing within a reasonable time, at the request or with the consent of the applicant in writing, the remaining two members of the review committee shall henceforth constitute an entire review committee for the purpose of such hearing. In the event such members cannot agree upon a determination, such fact shall be set forth in writing and a new hearing scheduled by the State executive director. If the applicant does not consent in writing to completion of the hearing by two members of the review committee, the hearing shall be rescheduled.

(d) *Reopened or remanded hearings.* In the case of a reopened or remanded hearing, if any member of the review committee is no longer in office because of death, resignation, or ineligibility, the State executive director shall designate another member of the review committee panel to serve on the review committee. If a hearing held pursuant to paragraph (b) or (c) of this section is reopened or remanded and

only one review committee member is available to hear such reopened or remanded hearing, the State executive director shall designate two additional members from the review committee panel to serve on the review committee.

§ 711.10 Term of office.

Appointment as a member of a review committee panel shall be for a term of 3 calendar years. A member may be reappointed for succeeding terms. Notwithstanding the foregoing, a review committee shall continue in office to conclude hearings before it which are begun during such 3-year term and make final determinations thereof, or to hold a reopened hearing, or to conclude a hearing remanded to it by a court.

[Amdt. 3, 38 FR 967, Jan. 8, 1973]

§ 711.11 Compensation.

The members designated as review committeemen shall receive compensation when serving at the same rate as that received by the members of the county committee which established the quotas sought to be reviewed. No member of a review committee shall be entitled to receive compensation for services as such member for more than 30 days in any one year. Payment of compensation, reimbursement for travel expenses and rates therefor, shall be made under such conditions as may be prescribed by the Deputy Administrator.

§ 711.12 Effect of change in composition of review committee.

Nothing contained in §§ 711.6 to 711.11 relating to any vacancy or revocation or suspension of appointment and nothing done pursuant thereto shall be construed as affecting the validity of any prior hearing conducted or determination made in accordance with the regulations in this part, in which the member of the review committee whose office has become vacant participated, or as affecting in any way court proceeding which may be instituted to review such determination.

JURISDICTION

§ 711.13 Areas of venue and jurisdiction.

(a) *Areas of venue.* The State committee shall establish one or more areas of venue in the State. An area of venue may consist of all or part of a county, or more than one county within a State. In establishing areas of venue, the State committee shall take into consideration the requirements of section 363 of the Act as to eligibility of review committee members, the prompt handling of applications for review, transportation problems and the limit of 30-day service by review committeemen in any one year.

(b) *Jurisdiction.* A review committee shall have jurisdiction within the area of venue for which it is established to hear applications respecting quotas established or denied by written notice issued by the county committee or other authorized official for farms within its area of venue, in accordance with this part.

(c) A listing of the areas of venue within a State shall be available from the State FSA office and the Deputy Administrator.

[35 FR 15355, Oct. 2, 1970, as amended at 49 FR 38240, Sept. 28, 1984]

APPLICATION FOR REVIEW OF QUOTA

§ 711.14 Application for review.

(a) *Manner and time of filing.* Any farmer who is dissatisfied with his quota may, within 15 days after the date of mailing to him of notice of such quota, file a written application for review thereof by the review committee. Such 15-day period is prescribed in accordance with section 363 of the Act. Unless application for review is timely filed, as determined under this section, the quota established by the notice shall not be subject to review by the review committee. Notice of quota subject to review under this part includes an official written notice as to the land constituting the farm. For example, a notice denying a request for farm reconstitution would be such a reviewable notice of quota. An application shall be in writing and addressed to, and filed with, the county executive director for the county from which the

notice of quota was received. Any application (Form MQ-53 available on request) whether made on Form MQ-53 or not, shall contain the following:

(1) Date of application and commodity (including type where applicable, e.g. Upland cotton, Flue-cured tobacco).

(2) Correct full name and address of applicant.

(3) Brief statement of each ground upon which the application is based.

(4) A statement of the amount of quota which it is claimed should have been established.

(5) Signature of applicant.

In any case where an application is timely filed for review of a quota on a farm which was reconstituted by division of a parent farm into two or more farms, such application shall be considered an application for review of the reconstitution of the parent farm. In any such case the farm operator of each farm resulting from such reconstitution shall be considered an applicant for purposes of this part with all the rights and privileges provided in this part. If an action may be taken by an applicant which affects the rights of any other applicant in the case, the other applicants shall be given the opportunity to concur in such action or to oppose such action.

(b) *Procedure where application is not timely filed.* The county committee shall examine each application for review. If the application is not filed within the prescribed 15-day period, the county executive director shall send a notice of untimely filing on Form MQ-54 by certified mail to the applicant at the address shown on the application. The applicant may file a request in writing with the county executive director within 15 days after the date of mailing such notice to him requesting a review committee hearing on the sole issue of whether the application was filed within the prescribed 15-day period. In the absence of timely request in writing for such review committee hearing, the application shall be deemed withdrawn by the applicant. If timely request in writing for such review committee hearing is filed, a copy of the application and request shall be forwarded by the county executive director to the State executive director

with a request that a hearing on the sole issue of timely filing be scheduled before the review committee. In cases involving the sole issue of timely filing of an application, the review committee shall determine whether the date the application was filed, or the postmark date in case of mailing by the applicant, was within the 15-day period. If the review committee determines that the application was timely filed, a hearing on the merits of the application shall be held. In addition, a hearing on the merits shall be conducted and the application treated as timely filed in any case where the review committee determines that the applicant in good faith requested review of his quota by the county or State committee under the regulations in part 780 of this chapter in reliance upon action or advice of any authorized representative of a county or State committee and subsequently filed application for review under this part within a reasonable time after he learns that the quota is subject to review committee jurisdiction.

(c) *Withdrawal of application.* An application may be withdrawn upon the written request of the applicant. Any application so withdrawn or deemed withdrawn under paragraph (b) of this section shall be endorsed by the clerk "Dismissed by the applicant".

(d) *Procedure where application is timely filed.* The county committee shall examine each application for review and where an application is found to be timely filed, the county executive director shall forward a copy of the application to the State executive director with a request that a hearing on the merits be scheduled before the review committee.

§ 711.15 Matters subject to review.

In all cases, the review committee shall consider only such factors as, under applicable provisions of law and regulations, are required or permitted to be considered by the county committee in the establishment of the quota being reviewed. The establishment of national marketing quotas and apportionment of national acreage allotments and marketing quotas among States and counties and the establishment of reserve acreages and quotas at

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the national level and apportionment of such reserves among States and counties are not subject to review by a review committee. Review of a quota may include any of the factors which enter into the establishment of such quota for the farm and crop year as set forth in §711.3(f): *Provided, however,* That any factor of such quota considered by a review committee in a prior determination for the farm and crop year shall not be considered in a subsequent review proceeding. For example, a determination of the farm acreage allotment by the review committee would not be reconsidered upon any application for review of the farm marketing excess for the same farm and crop year.

[49 FR 38240, Sept. 28, 1984]

§ 711.16 County committee answer.

(a) The county committee shall prepare a written answer to each application scheduled for hearing setting forth the pertinent facts, the applicable regulations, the data used in establishing the quota and any other matters deemed pertinent:

(b) *Provided,* That the answer may be limited to the issue of timely filing where the hearing is limited to that issue. If the county committee determines that the increase, adjustment or other determination requested in the application is proper in whole or in part, the written answer shall set forth the proposed determination and in such cases, the applicant shall be notified by the county committee of such proposed determination prior to the scheduled review hearing if practicable to do so. In the event the applicant is satisfied with the proposed determination, the county committee shall, upon the withdrawal of the application, take the necessary action to revise the quota within the limits of the Act and applicable commodity regulations if the required amount of acreage allotment or marketing quota is available in the county. The State executive director may perform the functions of the county committee under this section and the functions of the county committee and county executive director under §711.14 (b) and (d) in any case where the application for review involves a notice

of farm marketing quota issued by officials other than the county committee.

[35 FR 15355, Oct. 2, 1970, as amended at 49 FR 38240, Sept. 28, 1984]

§ 711.17 Amendments.

Upon due request, and within the discretion of the review committee, the right to amend the application and all procedural documents in connection with any hearing, shall be granted upon such reasonable terms as the review committee may deem right and proper.

HEARING AND DETERMINATION

§ 711.18 Place and schedule of hearing.

The place of hearing shall be in the office of the county committee through which the quota sought to be reviewed was established, or such other appropriate place in the county as may be designated by the State executive director or by the review committee in cases arising under §711.21: *Provided, however,* That the place of hearing may be in some other county if agreed to in writing by the applicant. The State executive director shall schedule applications for hearings and forward such schedule to the clerk.

§ 711.19 Notice of hearing.

The clerk shall give written notice on Form MQ-56 to the applicant by depositing such notice in the U.S. mail, certified and addressed to the last known address of the applicant at least 10 days prior to the time appointed for the hearing and copies of such notice shall also be sent to the county committee and the State office. If the applicant requests waiver of such 10-day period, the hearing may be scheduled earlier upon consent of the other interested parties. The notice of the hearing shall specify the time and place of the hearing, contain a statement of the statutory authority for the hearing, state that the application will be heard by the review committee duly appointed for the area of venue in which the applicant's farm is located, and that a verbatim transcript may be obtained by the applicant if he makes arrangement therefor before the hearing and pays the expense thereof.

§ 711.20 Continuances.

Hearings shall be held at the time and place set forth in the notice of hearing or in any subsequent notice amending or superseding the prior notice, but may without notice other than an announcement at the hearing by the chairman of the review committee, be continued from day to day or adjourned to a different place in the county or to a later date or to a date and place to be fixed in a subsequent notice to be issued pursuant to § 711.19. In the event a full committee of three is not present, those members present, or in the absence of the entire committee, the clerk, shall postpone the hearing unless the hearing is held pursuant to § 711.9 (b) or (c). There shall not be a continuance for lack of a full committee in the case of a reopened or remanded hearing where the hearing was initially held pursuant to § 711.9 (b) or (c) and the two review committeemen who previously held the hearing are present and eligible to serve.

§ 711.21 Conduct of hearing.

(a) *Open to public.* Except as otherwise provided in §§ 711.1 to 711.50, each hearing shall take place before the entire review committee and shall be presided over by the chairman of such committee. The hearing shall be open to the public and shall be conducted in a fair and impartial manner and in such a way as to afford the applicant, members of the appropriate county and community committees, and appropriate officers and agents of the Department of Agriculture, and all persons appearing on behalf of such parties, reasonable opportunity to give and produce evidence relevant to the quota being reviewed.

(b) *Consolidation of hearings.* Whenever practicable, two or more applications relating to the same commodity and the same farm shall be consolidated by the review committee on its own motion or at the request of the State executive director and heard at the same time on the same record. In any case involving two or more farms resulting from reconstitution by division of a parent farm, the hearing shall be consolidated.

(c) *Representation.* The applicant and the Secretary may be represented at

the hearing. The county committee shall be present or represented at the hearing.

(d) *Order of procedure.* At the commencement of the hearing, the chairman of the review committee shall read or cause to be read the pertinent portions of the application for review. The written answer of the county committee shall be submitted and shall be made a part of the record of the hearing. If the applicant asserts and shows to the satisfaction of the review committee that he has not been informed of the county committee's position in time to afford him adequate opportunity to prepare and present his case, the review committee shall continue the hearing, without notice other than announcement thereof at the hearing, for such period of time as will afford the applicant reasonable opportunity to meet the issues of fact and law involved. After answer by the county committee and following such continuance, if any, as may be granted by the review committee, evidence shall be received with respect to the matters relevant to the quota under review in such order as the chairman of the review committee shall prescribe. The review committee may take official notice of relevant publications of the Department of Agriculture and regulations of the Secretary.

(e) *Submission of evidence.* The burden of proof shall be upon the applicant as to all issues of fact raised by him. Each witness shall testify under oath or affirmation administered by the member of the review committee who is presiding at the hearing. The review committee shall confine the evidence to pertinent matters and shall exclude irrelevant, immaterial, or unduly repetitious evidence. Interested persons shall be permitted to present oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The hearing shall be concluded within such reasonable time as may be determined by the review committee.

(f) *Transcript of testimony.* The review committee shall provide for the taking of such notes including but not limited to stenographic reports or recordings at the hearing as will enable it to make

a summary of the proceedings and the testimony received at the hearing. The testimony received at the hearing shall be reported verbatim by a representative of a private firm under an existing Departmental contract for such services if the review committee, the State Executive Director, or the applicant, requests such transcript be made. If such transcript is so requested, the State Executive Director shall advise the Deputy Administrator, State and County Operations, prior to the hearing date who will then arrange for the service. A copy of such transcript shall be furnished to each of the following: The review committee, the State Executive Director, and the Regional Attorney, Office of the General Counsel, United States Department of Agriculture. The applicant or his representative may obtain a copy from the firm at his own expense.

(g) *Written arguments and proposed findings.* The review committee shall permit the applicant, the members of the appropriate county and community committees, and appropriate officers and agents of the Department of Agriculture to file written arguments and proposed findings of fact and conclusions, based on the evidence adduced at the hearing, for the consideration of the review committee within such reasonable time after the conclusion of the hearing as may be prescribed by the review committee. Such written arguments and proposed findings shall be filed in triplicate with the clerk and an additional copy thereof shall be provided to the other party.

[35 FR 15355, Oct. 2, 1970, as amended by Amdt. 5, 38 FR 16989, June 28, 1973]

§ 711.22 Nonappearance of applicant.

(a) *Original hearing.* If, at the time of the hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of the absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant and no continuance has been requested by the applicant, the review committee shall thereupon close the hearing, as to such applicant, and, without further pro-

ceedings in the case, make a determination dismissing the application.

(b) *Reopened or remanded hearing.* If, at a hearing which is reopened pursuant to § 711.25 or remanded by a court, the applicant is absent and no appearance is made on his behalf, the review committee shall continue the hearing for a reasonable period of time and if the applicant does not appear at such continued hearing, the review committee shall make a determination.

§ 711.23 Determination by review committee.

As soon as practicable after hearing on an application, including a hearing on the sole issue of timely filing, the review committee shall make a determination upon the application. If it is determined by the review committee that the application should be dismissed for untimely filing or denied, the review committee shall so indicate. If it is determined that the application should be granted in whole or in part, the review committee shall establish the quota which it finds to be proper. Each determination made by the review committee shall be in writing, shall contain specific findings of fact and conclusions together with the reasons or basis therefor, and shall be based upon and made in accordance with reliable, probative, and substantial evidence adduced at the hearing. The concurrence of two members of the review committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the review committee as will indicate his concurrence therein or his dissent therefrom. In case of an increase in the quota, the review committee shall specifically state in the determination in what respect, if any, the county committee has failed properly to apply the act and regulations thereunder. If such increase is based upon evidence not available to the county committee, the findings of the review committee shall so indicate. The appropriate county executive director shall make available to the review committee such clerical and stenographic assistance as may be required.

§ 711.24 Service of determination.

A copy of the determination, certified by the clerk as a true and correct copy of the signed original, shall be served upon the applicant by sending the same by certified mail addressed to the applicant at his last known address. The copy of the determination shall contain at the top thereof substantially the following statement: "To all persons who, as operator, landlord, tenant, or sharecropper, are or will be interested in the above-named commodity on the farm identified below in the year for which the marketing quota being reviewed is established" and such statement shall constitute notice to all such persons. The clerk shall make a notation on the original determination of the date and place of such mailing. The clerk forthwith shall forward two copies of such determination to the State office, and one copy to the county committee. The determination of the review committee does not become final until the period for reopening of hearing under § 711.25 has expired without any reopening; or if reopened thereunder, such determination becomes final upon issuance of a new determination pursuant to the reopened hearing, subject to further appeal to a court by the applicant.

§ 711.25 Reopening of hearing.

(a) *Upon motion of review committee.* Upon its own motion within 15 days from the date of mailing to the applicant of a copy of the determination of the review committee, the review committee may reopen a hearing for the purpose of taking additional evidence or of adding any relevant matter or document.

(b) *Upon written request based on new evidence.* Upon written request by the applicant, the county committee, the State executive director, or other interested parties, to the review committee within 15 days from the date of mailing to the applicant of a copy of the determination of the review committee, the review committee shall reopen the hearing for the purpose of taking additional evidence or of adding any relevant matter or document if the review committee finds that such evidence or documents constitute new evi-

dence not available to the parties at the time of the hearing.

(c) *Upon written notice by the Secretary.* Upon written notice by the Secretary or on his behalf by the Deputy Administrator to the review committee within 45 days from the date of mailing to the applicant of a copy of the determination of the review committee on Form MQ-58, the hearing shall be deemed reopened and the State executive director shall schedule the reopened hearing.

(d) *Schedule of reopened hearing.* Schedule of and notice of any reopened hearing shall follow the requirements of §§ 711.18 and 711.19 insofar as practicable. Notwithstanding the provisions of paragraphs (a), (b), and (c) of this section, no hearing shall be reopened after an appeal to a court pursuant to section 365 of the act has been timely filed by the applicant. No special hearing to contest a reopening of a hearing shall be scheduled; however, the applicant may present evidence and arguments to contest the reopening when the reopened hearing is held.

§ 711.26 Record of hearing.

The record of the proceedings shall be prepared by the clerk and shall consist of the following:

(a) All procedural documents in the case under review, including the application and written notices of quota and hearing and any other written notice in connection with the application.

(b) Copies of regulations presented at the hearing.

(c) The answer of the county committee or the State executive director.

(d) The summary of the proceedings and the testimony prepared by the review committee if a verbatim transcript is not made, or a transcript of the testimony where a verbatim transcript is made, in accordance with § 711.21(f), to which shall be annexed any documentary evidence received at the hearing.

(e) Any written arguments or proposed findings of fact and conclusions filed in connection with the hearing.

(f) The written determination of the review committee.

(g) A list of all papers included in the record and a certificate by the clerk

stating that such record is true, correct and complete.

COURT PROCEEDINGS

§711.27 Procedure in the case of court proceedings.

Upon the institution of any suit against the review committee for the purpose of reviewing its determination upon any application for review, the review committee is required by section 365 of the Act to certify and file in court a transcript of the record upon which the determination was made, together with the findings of fact made by the review committee. Any suit for review is required to be instituted by the applicant within 15 days after a notice of the review committee's determination is mailed to him. Such suit may be instituted in the U.S. District Court or in any court of record of the State having general jurisdiction, sitting in the county of the district in which the applicant's farm is located. The bill of complaint in such proceeding may be served by delivering a copy thereof to any member of the review committee. Any member of the review committee served with papers in such suit shall immediately forward such papers to the clerk. No member of the review committee shall appear or permit any appearance in his behalf or in behalf of the review committee, or take any action in respect to the defense of such suit, except in accordance with the instructions from the Deputy Administrator.

PUERTO RICO

§711.28 Special provisions applicable to Puerto Rico.

Notwithstanding the provisions of §§711.1 to 711.50, the Caribbean Area Agricultural Stabilization and Conservation Committee (hereinafter referred to as the "ASC Committee") shall perform, insofar as applicable, the duties and assume such responsibilities and be subject to the limitations as are otherwise required of State and county committees except as provided herein. The Director, Caribbean Area FSA office, shall recommend members of the review committee panel, the areas of venue, and perform the functions of the State executive director.

Any farmer who is eligible to vote in a referendum for which a quota has been proclaimed shall be eligible for appointment as a member of a review committee panel. The clerk shall be the ASC district supervisor of the district in which the review committee will hold its hearings. Where it is impractical or impossible to use the United States mail to serve the applicant with notice of hearing or determination, use shall be made of such other method of service as is available. However, when such other method is used, the ASC Committee shall make provision for keeping an accurate record of the date and method of delivery to the applicant.

OMB CONTROL NUMBERS

§711.29 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 711) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB control number 0560-0068.

[49 FR 38240, Sept. 28, 1984]

PART 714—REFUNDS OF PENALTIES ERRONEOUSLY, ILLEGALLY, OR WRONGFULLY COLLECTED

Sec.

- 714.35 Basis, purpose, and applicability.
- 714.36 Definitions.
- 714.37 Instructions and forms.
- 714.38 Who may claim refund.
- 714.39 Manner of filing.
- 714.40 Time of filing.
- 714.41 Statement of claim.
- 714.42 Designation of trustee.
- 714.43 Recommendation by county committee.
- 714.44 Recommendation by State committee.
- 714.45 Approval by Deputy Administrator.
- 714.46 Certification for payment.

AUTHORITY: Secs. 372, 375, 52 Stat. 65, as amended, 66, as amended; 7 U.S.C. 1372, 1375.

SOURCE: 35 FR 12098, July 29, 1970, unless otherwise noted.