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§ 11.15 Participation of third parties and interested parties in Division proceedings.

In two situations, parties other than the appellant or the agency may be interested in participating in Division proceedings. In the first situation, a Division proceeding may in fact result in the adjudication of the rights of a third party, e.g., an appeal of a tenant involving a payment shared with a landlord, an appeal by one recipient of a portion of a payment shared by multiple parties, an appeal by one heir of an estate. In the second situation, a party may desire to receive notice of and perhaps participate in an appeal because of the derivative impact the appeal determination will have on that party, e.g., guaranteed lenders and reinsurance companies. The provisions in this section set forth rules for the participation of such third and interested parties.

(a) *Third parties.* When an appeal is filed, the Division shall notify any potential third party whose rights may be adjudicated of its right to participate as an appellant in the appeal. This includes the right to seek Director review of the Hearing Officer determination. Such third parties may be identified by the Division itself, by an agency, or by the original appellant. The Division shall issue one notice to the third party of its right to participate, and if such party declines to participate, the Division determination will be binding as to that third party as if it had participated. For purposes of this part, a third party includes any party for which a determination of the Division could lead to an agency action on implementation that would be adverse to the party thus giving such party a right to a Division appeal.

(b) *Interested parties.* With respect to a participant who is a borrower under a guaranteed loan or an insured under a crop insurance program, the respective guaranteed lender or reinsurance company having an interest in a participant's appeal under this part may participate in the appeal as an interested party, but such participation does not confer the status of an appellant upon the guaranteed lender or reinsurance company such that it may request Director review of a final determination of the Division.

Subpart B—Organization And Functions

AUTHORITY: 5 U.S.C. 301 and 552; 7 CFR part 2.

SOURCE: 63 FR 44773, Aug. 21, 1998, unless otherwise noted.

§ 11.20 General statement.

This subpart provides guidance for the general public as to the organization and functions of NAD.

§ 11.21 Organization.

NAD was established on October 13, 1994. Delegation of authority to the Director, NAD, appears at § 2.34 of this title. The organization is comprised of three regional offices: Eastern Regional Office, Indianapolis, Indiana; Southern Regional Office, Memphis, Tennessee; and Western Regional Office, Lakewood, Colorado; and the headquarters staff located in Alexandria, Virginia. NAD is headed by a Director. NAD is assigned responsibility for certain administrative appeals as set forth in subpart A of this part.

§ 11.22 Functions.

(a) *Director.* Provides executive direction for NAD. The Director is responsible for developing and implementing nationwide plans, policies, and procedures for the timely and orderly hearing and disposition of appeals filed by individuals or entities in accordance with subpart A of this part. The Director will respond to all FOIA requests concerning appeal decisions and case records maintained by NAD.

(b) *Deputy Director for Hearings and Administration.* Responsible for all administrative functions of NAD, including budget, correspondence, personnel, travel, equipment, and regulation review and development.

(c) *Deputy Director for Planning, Training, and Quality Control.* Responsible for NAD strategic planning, including the organization's compliance with the Government Performance and Results Act, Pub. L. 103–62, employee training, and the establishment and

maintenance of a quality assurance program.

(d) *Assistant Directors for Regions.* Responsible for oversight of the adjudication process for cases filed in the NAD regional offices. Assistant Directors ensure statutory and administrative time frames are met, and oversee the administrative functions, training, and supervision of the support staff located in the regional offices and the large dispersed staff of professional hearing officers located throughout the regions. The three regional offices serve as the custodian for all NAD determinations and case records.

Subpart C—Availability of Information to the Public

AUTHORITY: 5 U.S.C. 301 and 552; 7 CFR 1.1–1.16.

SOURCE: 63 FR 44774, Aug. 21, 1998, unless otherwise noted.

§ 11.30 General statement.

This subpart implements the regulations of the Secretary of Agriculture at 7 CFR 1.1 through 1.16 concerning FOIA (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of the records of NAD to the public.

§ 11.31 Public inspection and copying.

Section 1.5 of this title requires that certain materials be made available by each USDA agency for public inspection and copying in accordance with 5 U.S.C. 522(a)(2). Members of the public wishing to gain access to these NAD records should write to the appropriate address shown in appendix A of this subpart.

§ 11.32 Initial requests for records.

(a) Requests for NAD records should be in writing and addressed to the NAD official having custody of the records desired as indicated in §11.22(d). Addresses are found in Appendix A of this subpart. In his or her petition, the requester may ask for a fee waiver if there is likely to be a charge for the requested information. The criteria for waiver of fees are found in section 6 of appendix A, subpart A of part 1 of this title. All requests for records shall be deemed to have been made pursuant to FOIA, regardless of whether FOIA is specifically mentioned. To facilitate processing of a request, the phrase "FOIA REQUEST" should be placed in capital letters on the front of the envelope.

(b) A request must reasonably describe records to enable NAD personnel to locate them with reasonable effort. Where possible, a requester should supply specific information, such as dates, titles, appellant name or appeal number, that may help identify the records. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) If NAD determines that a request does not reasonably describe the records, it shall inform the requester of this fact and extend the requester an opportunity to clarify the request or to confer promptly with knowledgeable NAD personnel to attempt to identify the records he or she is seeking. The "date of receipt" in such instances, for purposes of §1.12(a) of this title, shall be the date of receipt of the amended or clarified request.

(d) Nothing in this subpart shall be interpreted to preclude NAD from honoring an oral request for information, but if the requester is dissatisfied with the response, the NAD official involved shall advise the requester to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request for purposes of §1.12(a) of this title shall be the date of receipt of the written request. For recordkeeping purposes, the NAD official responding to an oral request for information may ask the requester to also submit his or her request in writing.

(e) If a request for records or a fee waiver under this subpart is denied, the person making the request shall have the right to appeal the denial. Requesters also may appeal NAD decisions regarding a requester's status for purposes of fee levels under section 5 of Appendix A, subpart A of part 1 of this title. All appeals must be in writing and addressed to the official designated in §11.33. To facilitate processing of an appeal, the phrase "FOIA APPEAL"