



FmHA AN No. 2879 (1900-B)

October 5, 1993

**SUBJECT:** Requests for Review of Hearing Officer's Decisions  
Implementation of Appeal Decisions

**To:** State Directors, District Directors, County  
Supervisors, and RDA Regional Directors

**PURPOSE/INTENDED OUTCOME:**

The purposes of this Administrative Notice (AN) are as follows:

**Issue One:** To stress the importance of promptly submitting appeal review requests to the Assistant Administrators for Housing, Farmer Programs and Financial Programs (RDA), as appropriate, for referral to the National Appeals Staff (NAS).

**Issue Two:** To emphasize the importance of implementing appeal decisions on a timely basis and to further define the meaning of "implementation."

**COMPARISON WITH PREVIOUS AN:**

**Issue One:** No previous AN has been issued on this subject.

**Issue Two:** This AN supplements and supports AN 2689 (1900), dated November 18, 1992.

**IMPLEMENTATION RESPONSIBILITIES:**

**Issue One:** Delays have been experienced in receiving requests from State Offices to the Assistant Administrators for reviews of NAS hearing officers' decisions under Section 1900.61 of FmHA Instruction 1900-B. Such requests may be made to NAS only by the appropriate Assistant Administrator, and only within 9 working days after the decision maker receives a copy

Expiration Date: September 30, 1994

Filing Instructions  
Preceding FmHA  
Instruction 1900-B



of the hearing officer's decision. Therefore, it is the responsibility of the decision makers and the State Directors to ensure that their requests are received by the appropriate Assistant Administrator in sufficient time to be reviewed and referred to the Director of NAS.

To avoid delays, State Directors should do the following when submitting cases to the Assistant Administrators:

1. Thoroughly review the case to determine if the decision is in conflict with applicable FmHA regulations or law, or will result in unauthorized assistance being granted to the appellant. The Assistant Administrators will not ask for a review by the NAS Director unless a decision is defective for these reasons. (See FmHA Instruction 1900-B, Section 1900.61(a).)

2. If, after reviewing the information submitted by the decision maker or his/her designee, the State Director decides to submit the case to the appropriate Assistant Administrator, it should be faxed in the following manner:

a. Outline the facts and include documentation to support the request. It is not usually necessary to submit the case file. If the file is not submitted, States must be sure that the request includes copies of all pertinent documentation supporting the review request.

b. Cases involving Rural Housing (RH) loan servicing issued should be faxed to (202) 205-2476.

c. Cases involving RH loan making/processing issues should be faxed to (202) 720-2232.

d. Cases involving Farmer Programs (FP) loan servicing issues should be faxed to (202) 720-0598.

e. Cases involving FP loan making issues should be faxed to (202) 690-1117.

f. Cases involving Community and Business Programs (RDA) should be faxed to (202) 690-4737.

3. If it is necessary to submit the case file to support the request, it should be forwarded by overnight delivery to the appropriate division (Loan Making/Processing, Loan Servicing, or Property Management Division) on the day the fax is sent.

4. States should make every effort to have the request submitted to the appropriate Assistant Administrator at least 3 to 4 working days before the end of the 9 working-day deadline established for requesting a review.

As a general rule, 2 days mail time is allowed from the date of the hearing officer's decision before the 9 working-day period begins. Time is of the essence, and decision makers should be aware of the necessity to initiate review requests, if appropriate, as soon as the hearing officer's decision is received.

**Issue Two:** FmHA Instruction 1900-B. Section 1900.59(c), requires that, if an adverse decision concerning the making or guaranteeing of any FP or C&BP loan is reversed or modified, the decision maker "shall resume processing of the application and notify the applicant of this within 15 days" after receiving the NAS decision. This provision does not cover adverse loan servicing decisions. The decision maker should also notify the applicant at that time of any additional information needed.

This constitutes the beginning of implementation, and should be done as soon as possible after the NAS decision is received, unless an appeal review is requested. Should the review request be denied, these steps should be taken immediately upon notification of that fact.

The scope of Section 1900.59(d) of FmHA Instruction 1900-B is broader. It requires that all NAS decisions (unless accepted for review by the Director of NAS) be fully implemented within 60 days of receipt of the decision. Implementation is completed when "the next step in a loan processing or loan servicing action, required by FmHA regulations, that would occur had no adverse decision been made and appeal filed," is taken.

The following example clarifies these points:

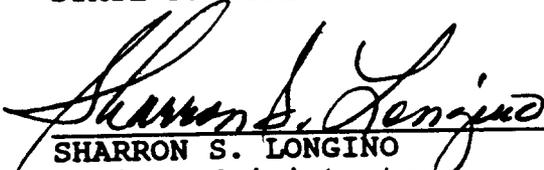
An applicant has appealed FmHA's rejection of an operating loan, based on inability to cash-flow. The applicant contends at the appeal hearing that off-farm income was not considered. The hearing officer reverses the rejection and requires that FmHA consider the additional income.

The County Supervisor writes the applicant within 15 days of receiving the NAS decision and allows 30 days to provide verification of income. At this point, the decision maker has met the requirement of

Section 1900.59(c) and has begun implementation. This action should be coded Status D on the Implementation of Reversed and Modified Appeal Decisions (IRMAD) tracking system.

The applicant timely provides verification of off-farm income. The County Supervisor and borrower revise the Farm and Home Plan. There is now a positive cash-flow, and the loan can be approved. The County Supervisor sends a letter to the applicant advising that the loan has been approved. At this point, the requirements of Section 1900.59(d) have been met, and the appeal decision is fully implemented. The case should now be coded Status E on the IRMAD system.

THIS AN MAY NOT BE REVISED OR MODIFIED FOR PUBLICATION AS A STATE DIRECTIVE.

  
SHARRON S. LONGINO  
Acting Administrator  
Farmers Home Administration

  
WILBUR T. PEER  
Acting Administrator  
Rural Development Administration

Sent by Electronic Mail to States on 10/08/93 at 3:19 by GSS.  
The State Director should advise other personnel as appropriate.