



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1853 (1951)

January 12, 1989

Subject: Processing Appeal Requests for Farmer
Programs Account Servicing Action

To: State Director, District Directors and
County Supervisors

PURPOSE/INTENDED/OUTCOME This AN is intended to resolve inconsistencies between FmHA Instruction 1900-B "Adverse Decisions and Administrative Appeals and FmHA Instruction 1951-S "Farmer Program Account Servicing Policies." This AN is effective until appropriate revisions are completed in the subject regulations.

IMPLEMENTATION RESPONSIBILITIES For Farmer Program account servicing cases only, FmHA Instruction 1951-S, Exhibit A, Attachments 3, 5, and 9 serve as the notice of intent to take adverse action and therefore replaces Exhibit letter B-1 of FmHA Instruction 1900-B.

This AN contains an attachment to be included with 1951-S Exhibit A Attachments 3, 5, and 9, informing borrowers of their appeal rights.

Borrowers returning 1951-S Exhibit A, Attachments 4, 6, or 10, to the county office may indicate a request for an administrative appeal. County Supervisors receiving such a request should immediately forward a copy of Attachment 4, 6, or 10 to the appropriate Area Supervisor, National Appeals Staff.

Several references are made in FmHA Instruction 1951-S to a list of appraisers a borrower may choose from to conduct an independent appraisal in connection with an appeal of a denial of primary loan servicing options. The present regulations contain statements as to who will provide the list of appraisers to the appellant. County Supervisors will maintain the list of appraisers in the County Office. The hearing officer, National Appeals Staff (NAS) will call for this list whenever an appellant requests an appraisal as part of his/her appeal, and provide the list to the appellant. Clarifications of this issue will be made upon publication of final regulations.

Expiration Date: September 30, 1989

FILING INSTRUCTIONS:
Preceding
FmHA Instruction 1900-B.



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

Finally, Attachment 1 of Exhibit A to FmHA:Instruction 1951-S erroneously informs borrowers that they may obtain a copy of their appeal hearing transcript if they pay for the copying costs. However, FmHA Instruction 1900.57(d)(i)(ii) provides that transcripts are made available to the appellant for the cost of transcription, not the copying costs. This provision in FmHA Instruction 1900-B will control. Clarifications of this issue will also be made upon publication of final regulations.

If you have any further questions please feel free to contact Ms. Pamela Dillon, Director, National Appeals Staff at FTS 756-7008 or commercial 703-756-7008.

Sincerely,



NEAL SOX JOHNSON
Acting Administrator

Attachment

(Use as an attachment to Exhibit A, Attachments 3, 5 and 9)

Appeals of Adverse Actions

The decision described in the attached letter did not grant you the FmHA assistance you requested or will terminate the assistance you are presently receiving. You have the right to appeal this decision and to have a hearing or a review in lieu of a hearing. In order for this decision to be changed, you will have to show why the decision should be reversed. If you wish to appeal the decision, the request for a hearing must be received in the county office postmarked within 30 days after receipt of the attached notice. If you wish to meet with the decision maker first, you will be informed of your further appeal rights at the conclusion of that meeting and given 30 days to request a hearing.

A decision will be made within 45 days of the receipt of your appeal request.

You or your representative or counsel may contact this office anytime during regular office hours in the 10 days following the receipt of your request for a hearing to examine or copy relevant non-confidential material in your file. Photostatic copies will be provided in accordance with the Freedom of Information Act. Your representative or counsel should have your written authorization to represent you and review your file.

The Hearing Officer will contact you regarding a time and place for the hearing. You may have a representative or counsel with you and may present your own witnesses. The FmHA decision maker or representative will be there and available for you to question, as will all other witnesses presented by FmHA. If you wish to have other FmHA employees present as your witnesses, let the Hearing Officer know and, if possible, they will be there.

You may also request a teleconference hearing in lieu of a face to face hearing.

FmHA will record the hearing. You may request a copy of the tape. You may also tape record the hearing. You may request FmHA to have a transcript of the tape made at your expense.

At any time before the scheduled hearing you may request that the Hearing Officer make a decision without a hearing. If you do, the Hearing Officer's decision will be based on the FmHA file, any written statements or evidence you may provide and any additional information the Hearing Officer thinks necessary.

The Hearing Officer will advise you by letter of the decision made, the reasons for it, and, if your request for assistance is not granted, what further administrative appeals may be available to you.

A more complete description of the hearing (A Guide to Conducting an Appeals Hearing) may be obtained from any FmHA office.

If your denial involves an appraisal related to farmer program primary loan servicing programs you may request an independent appraisal as part of your appeal from a list of appraisers provided by your county supervisor or hearing officer. The cost of the appraisal is your expense.