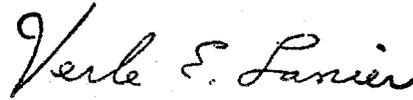


**For:** FSA Offices

**Procedure for NAD Appeal Status Inquiries**

**Approved by:** Associate Administrator, Operations and Management



**1 Overview**

**A Background**

Under policy established within the Department of Agriculture, the National Appeals Division (NAD) serves determinations of NAD hearing officers and the NAD Director on the Administrators of covered agencies, including the Administrator, FSA. This policy accommodates the restriction under the NAD rules of procedure, 7 CFR 11.9(a)(2), and in the authorizing statute, 7 U.S.C. 6998(a)(2), that only the head of a covered agency may request review by the NAD Director of a hearing officer’s determination in an appeal. The policy ensures that the head of an agency will have a full opportunity to review a hearing officer’s determination or a NAD Director’s review determination before the applicable deadline expires to request review of a hearing officer’s determination by the NAD Director or reconsideration of a review determination by the NAD Director.

**B Purpose**

This notice:

- reiterates FSA policy that status inquiries to NAD about the issuance of NAD hearing officer or NAD Director review determinations must be channeled through the Appeals and Litigation Staff (ALS)
- Note:** Service Center, State Office, and National Office employees must not make such inquiries directly to NAD.
- furnishes instructions on handling of misdirected NAD hearing officer determinations and NAD Director review determinations.

<b>Disposal Date</b>	<b>Distribution</b>
April 1, 2004	All FSA offices; State Offices relay to County Offices

## 2 NAD Appeal Status Inquiry Procedure

### A Service Center Action

After a NAD hearing officer has closed the hearing record in an appeal, Service Center employees must direct all inquiries about the status of the appeal to the State Appeals Coordinator.

### B State Office Action

If the State Office has not received a hearing officer determination after the hearing has closed and more than 30 calendar days have passed after the hearing record closed, the State Appeals Coordinator, or other appropriate State Office staff, may contact ALS and request that ALS make any necessary or appropriate inquiry to NAD. State Office employees must not contact NAD with a status inquiry under any circumstance after the hearing record has closed.

### C National Office Status Inquiries, Except ALS

If the National Office has questions about the status of an appeal after the hearing has closed and more than 30 calendar days have passed after the hearing record closed, the National Office staff may contact ALS and request that ALS make any necessary or appropriate inquiry to NAD. National Office employees must not contact NAD with a status inquiry under any circumstance after the hearing record has closed.

### D ALS Status Inquiries

ALS will contact NAD about the status of an appeal when:

- significant time has passed beyond what should reasonably be expected for NAD to issue the determination
- the State Office advises that an appellant has received a NAD determination and more than a reasonable time has passed for service of the determination on the Administrator

### E Misdirected NAD Determinations

Any State or National Office or Service Center receiving a hearing officer or review determination directly from NAD shall promptly contact ALS by telephone to report misdelivery of the subject determination by NAD. The receiving office shall preserve the original envelope used by NAD to effect misdelivery of the determination and shall promptly date-stamp the determination received from NAD.

**Note:** State Offices and Service Centers must instruct their mail rooms to preserve all envelopes used for transmittal of a document by NAD.

**3 NAD Service on FSA**

**A Address for NAD Service on the Administrator**

ALS is the designated address for service on the Administrator of:

- determinations by NAD on the appealability of FSA program decisions
- hearing officer determinations in NAD appeal
- NAD Director review determinations
- decisions of the NAD director on requests for reconsideration of review determinations
- notice of an appellant's request for a review by the NAD Director
- notice of conclusion of a NAD appeal
- other correspondence from NAD to an appellant following closing of the hearing record in an appeal.

**B Distribution of NAD Determinations**

Upon receipt of any written communication served on the Administrator by NAD, ALS will date-stamp the communication and transmit either of the following:

- the communication to the appropriate State Office
- notice of receipt of the communication.

**C ALS Telephone Number for Telephone Inquiries**

Direct inquiries about the status of an appeal to the main ALS telephone number at 202-690-3297. If the telephone contact should roll over to the FSA voice messaging system, leave a message stating the NAD Case Number for the appeal, the name of the appellant, and the name and telephone number of the person in the State Office for ALS to contact in response.