

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"

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should be placed in capital letters on the front of the envelope.

(f) NAD shall develop and maintain a record of all written and oral FOIA requests and FOIA appeals received by NAD, which shall include, in addition to any other information, the name of the requester, brief summary of the information requested, an indication of whether the request or appeal was denied or partially denied, the FOIA exemption(s) cited as the basis for any denials, and the amount of fees associated with the request or appeal.

§ 11.33 Appeals.

Any person whose initial FOIA request is denied in whole or in part may appeal that denial to the Director, National Appeals Division, U.S. Department of Agriculture, 3101 Park Center Drive, Suite 1113, Alexandria, Virginia 22302. The Director will make the final determination on the appeal.

APPENDIX A TO SUBPART C OF PART 11— LIST OF ADDRESSES

This list provides the titles and mailing addresses of officials who have custody of NAD records. This list also identifies the normal working hours, Monday through Friday, excluding holidays, during which public inspection and copying of certain kinds of records is permitted.

Director, National Appeals Division, U.S. Department of Agriculture, 3101 Park Center Drive, Suite 1113, Alexandria, Virginia 22302, Hours: 8 a.m.–5 p.m.

Regional Assistant Director, Eastern Region, National Appeals Division, U.S. Department of Agriculture, 3500 DePauw Boulevard, Suite 2052, Indianapolis, Indiana 46268, Hours: 8 a.m.–5 p.m.

Regional Assistant Director, Southern Region, National Appeals Division, U.S. Department of Agriculture, 7777 Walnut Grove Road, LLB-1, Memphis, Tennessee 38120, Hours: 8 a.m.–5 p.m.

Regional Assistant Director, Western Region, National Appeals Division, U.S. Department of Agriculture, 755 Parfet Street, Suite 494, Lakewood, Colorado 80215–5506, Hours: 8 a.m.–5 p.m.

PART 12—HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Subpart A—General Provisions

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12.2 Definitions.

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Subpart B—Highly Erodible Land Conservation

- 12.20 NRCS responsibilities regarding highly erodible land.
- 12.21 Identification of highly erodible lands criteria.
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- 12.23 Conservation plans and conservation systems.

Subpart C—Wetland Conservation

- 12.30 NRCS responsibilities regarding wetlands.
- 12.31 On-site wetland identification criteria.
- 12.32 Converted wetland identification criteria.
- 12.33 Use of wetland and converted wetland.
- 12.34 Paperwork Reduction Act assigned number.

AUTHORITY: 16 U.S.C. 3801 *et seq.*

SOURCE: 61 FR 47025, Sept. 6, 1996, unless otherwise noted.

Subpart A—General Provisions

§ 12.1 General.

(a) *Scope.* This part sets forth the terms and conditions under which a person who produces an agricultural commodity on highly erodible land or designates such land for conservation use, plants an agricultural commodity on a converted wetland, or converts a wetland shall be determined to be ineligible for certain benefits provided by the United States Department of Agriculture (USDA) and agencies and instrumentalities of USDA.

(b) *Purpose.* The purpose of the provisions of this part are to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby—

- (1) Reduce soil loss due to wind and water erosion;
- (2) Protect the Nation's long-term capability to produce food and fiber;