

§ 2422.33 Relief obtainable under Part 2423.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief if filed or raised as an unfair labor practice under Part 2423 of this Chapter: *Provided, however*, that related matters may be consolidated for hearing as noted in § 2422.27(d) of this subpart.

§ 2422.34 Rights and obligations during the pendency of representation proceedings.

(a) *Existing recognitions, agreements, and obligations under the Statute.* During the pendency of any representation proceeding, parties are obligated to maintain existing recognitions, adhere to the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(b) *Unit status of individual employees.* Notwithstanding paragraph (a) of this section and except as otherwise prohibited by law, a party may take action based on its position regarding the bargaining unit status of individual employees, pursuant to 5 U.S.C. 7103(a)(2), 7112 (b) and (c): *Provided, however*, that its actions may be challenged, reviewed, and remedied where appropriate.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

5. The authority citation for Part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

6. Section 2429.21 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2429.21 Computation of time for filing papers.

(a) In computing any period of time prescribed by or allowed by this subchapter, except in agreement bar situations described in § 2422.12 (c), (d), (e), and (f) of this subchapter, and except as to the filing of exceptions to an arbitrator's award under § 2425.1 of this subchapter, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. *Provided, however*, in

agreement bar situations described in § 2422.12 (c), (d), (e), and (f), if the 60th day prior to the expiration date of an agreement falls on Saturday, Sunday, or a Federal legal holiday, a petition, to be timely, must be filed by the close of business on the last official workday preceding the 60th day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations.

(b) Except when filing an unfair labor practice charge pursuant to § 2423.6 of this subchapter, a representation petition pursuant to Part 2422 of this subchapter, and a request for an extension of time pursuant to § 2429.23(a) of this part, when this subchapter requires the filing of any paper with the Authority, the General Counsel, a Regional Director, or an Administrative Law Judge, the date of filing shall be determined by the date of mailing indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed 5 days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the Authority or the officer or agent designated to receive such matter.

7. Section 2429.22 is revised to read as follows:

§ 2429.22 Additional time after service by mail.

Except as to the filing of an application for review to a Regional Director's Decision and Order under § 2422.31 of this subchapter, whenever a party has the right or is required to do some act pursuant to this subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail, five (5) days shall be added to the prescribed period: *Provided, however*, That five (5) days shall not be added in any instance where an extension of time has been granted.

Dated: December 22, 1995.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

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DEPARTMENT OF AGRICULTURE**Office of the Secretary****Farm Service Agency****Natural Resources Conservation Service****Rural Business-Cooperative Service****Rural Housing Service****Rural Utilities Service**

7 CFR Parts 1, 11, 12, 400, 614, 620, 623, 631, 632, 634, 663, 701, 702, 752, 780, 781, and 1900

National Appeals Division Rules of Procedure

AGENCY: Office of the Secretary, National Appeals Division, USDA.

ACTION: Interim final rule.

SUMMARY: On May 22, 1995 (60 FR 27044), the National Appeals Division (NAD) in the Office of the Secretary published a proposed rule to implement Title II, Subtitle H, of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354, 7 U.S.C. 6991 *et seq.*, by setting forth procedures for program participant appeals of adverse decisions by United States Department of Agriculture (USDA) agency officials to NAD. The deadline for receipt of comments was June 21, 1995. On June 28, 1995 (60 FR 32922) the Office of the Secretary published an extension of the deadline for receipt of comments until July 6, 1995. From the period May 22 to July 6, 1995, forty-six timely public comments were received in response to the proposed rulemaking. Based on these comments, including concerns regarding the need for an additional comment period on the proposed rules and the need for a comment period on USDA agency conforming rules, but mindful of the immediate need for published rules, the Secretary now issues these rules on an interim final basis. These rules also include conforming changes to the former appeal rules of USDA agencies whose adverse decisions are now subject to NAD review.

DATES: Part 11 of this interim rule is effective January 16, 1996. With the exception of § 11.9, part 11 of this rule is applicable as to agency adverse decisions and NAD appeals for which hearings have not been held. Section 11.9 of this interim rule is applicable immediately as to all pending requests for Director review and is applicable retroactively to all requests for Director