

## §711.22

a summary of the proceedings and the testimony received at the hearing. The testimony received at the hearing shall be reported verbatim by a representative of a private firm under an existing Departmental contract for such services if the review committee, the State Executive Director, or the applicant, requests such transcript be made. If such transcript is so requested, the State Executive Director shall advise the Deputy Administrator, State and County Operations, prior to the hearing date who will then arrange for the service. A copy of such transcript shall be furnished to each of the following: The review committee, the State Executive Director, and the Regional Attorney, Office of the General Counsel, United States Department of Agriculture. The applicant or his representative may obtain a copy from the firm at his own expense.

(g) *Written arguments and proposed findings.* The review committee shall permit the applicant, the members of the appropriate county and community committees, and appropriate officers and agents of the Department of Agriculture to file written arguments and proposed findings of fact and conclusions, based on the evidence adduced at the hearing, for the consideration of the review committee within such reasonable time after the conclusion of the hearing as may be prescribed by the review committee. Such written arguments and proposed findings shall be filed in triplicate with the clerk and an additional copy thereof shall be provided to the other party.

[35 FR 15355, Oct. 2, 1970, as amended by Amdt. 5, 38 FR 16989, June 28, 1973]

## §711.22 Nonappearance of applicant.

(a) *Original hearing.* If, at the time of the hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of the absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant and no continuance has been requested by the applicant, the review committee shall thereupon close the hearing, as to such applicant, and, without further pro-

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ceedings in the case, make a determination dismissing the application.

(b) *Reopened or remanded hearing.* If, at a hearing which is reopened pursuant to §711.25 or remanded by a court, the applicant is absent and no appearance is made on his behalf, the review committee shall continue the hearing for a reasonable period of time and if the applicant does not appear at such continued hearing, the review committee shall make a determination.

## §711.23 Determination by review committee.

As soon as practicable after hearing on an application, including a hearing on the sole issue of timely filing, the review committee shall make a determination upon the application. If it is determined by the review committee that the application should be dismissed for untimely filing or denied, the review committee shall so indicate. If it is determined that the application should be granted in whole or in part, the review committee shall establish the quota which it finds to be proper. Each determination made by the review committee shall be in writing, shall contain specific findings of fact and conclusions together with the reasons or basis therefor, and shall be based upon and made in accordance with reliable, probative, and substantial evidence adduced at the hearing. The concurrence of two members of the review committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the review committee as will indicate his concurrence therein or his dissent therefrom. In case of an increase in the quota, the review committee shall specifically state in the determination in what respect, if any, the county committee has failed properly to apply the act and regulations thereunder. If such increase is based upon evidence not available to the county committee, the findings of the review committee shall so indicate. The appropriate county executive director shall make available to the review committee such clerical and stenographic assistance as may be required.