

Subpart B—Rules of Procedure

§ 279.5 Manner of filing requests for review.

(a) *Addressing requests for review.* Requests for review submitted by firms shall be mailed to or filed with Director, Administrative Review Division, U.S. Department of Agriculture, Food and Nutrition Service, Room 304, 3101 Park Center Drive, Alexandria, Virginia 22302.

(b) *Content of requests.* Requests for review shall be in writing and shall state the name and business address of the firm involved, and the name, address and position with the firm of the person who signed the request. The request shall be signed by the owner of the firm, an officer or partner of the firm, or by counsel, and need not be under oath.

(c) *Time limit for requesting review.* A request for review shall be filed with the Director, Administrative Review Division, within 10 days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether a filing date is timely:

(1) The filing date shall be the postmark date of the request, or equivalent if the written request is filed by a means other than mail;

(2) In computing the 10 day period, the day of delivery of the notice of the action for which review is requested may not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. In that case, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this paragraph, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States.

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 236, 49 FR 22058, May 25, 1984]

§ 279.6 Content of request for review.

(a) *Identifying the request.* Requests for review shall clearly identify the ad-

ministrative action from which the review is requested. This identification shall include the date of the letter or other written communication notifying the firm of the administrative action, the name and title of the person who signed the letter or other communication, and whether the action under appeal concerns a denial of an application or a withdrawal of authorization to participate, a disqualification from further participation, a civil money penalty, or a denial of all or any part of a claim or a fine.

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will be filed in writing at a later date. In the latter case, the review officer shall notify the firm of the date by which the information must be filed. The firm requesting review may ask for an opportunity to appear before the review officer in person. However, any information submitted in person shall, if directed by the review officer, be put in writing by the firm and filed with the review officer within a period which the review officer shall specify.

[Amdt. 136, 43 FR 43279, Sept. 22, 1978, as amended by Amdt. 236, 49 FR 22058, May 25, 1984; Amdt. 334, 57 FR 3913, Feb. 3, 1992]

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* Upon receipt of a request for review of administrative action, the review officer shall notify the appropriate FNS regional office, in writing, of the action under review, and shall direct that the administrative action be held in abeyance until the review officer has made a determination. However, in cases of permanent disqualification under § 278.6(e)(1) of this chapter, the administrative action shall not be held in abeyance pending such a review determination. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be held liable for the value of any sales lost during the disqualification period. If the administrative action in question involves a denial of approval of an application to participate in the program, a denial of a claim brought by a firm