

## § 400.91

## 7 CFR Ch. IV (1–1–05 Edition)

continues to be in effect for the current crop year.

*Mediation.* A process in which a trained, impartial, neutral third party (the mediator), meets with the disputing parties, facilitates discussions, and works with the parties to mutually resolve their disputes, narrow areas of disagreement, and improve communication.

*NAD.* The USDA National Appeals Division. See 7 CFR part 11.

*Non-certified State.* A State that is not approved by the Secretary of Agriculture to participate in the USDA Mediation Program under 7 CFR part 1946, subpart A, or its successor regulation.

*Participant.* An individual or entity that has applied for crop insurance or who holds a valid crop insurance policy that was in effect for the previous crop year and continues to be in effect for the current crop year. The term does not include individuals or entities whose claims arise under the programs excluded in the definition of participant published at 7 CFR 11.1.

*Reinsured company.* A private insurance company, including its agents, that has been approved and reinsured by FCIC to provide insurance to participants.

*Reviewing authority.* A person assigned the responsibility by the Agency of making a decision on a request for administrative review by the participant in accordance with this subpart.

*RMA.* The Risk Management Agency, an agency within USDA, or its successor agency.

*RSO.* The Regional Service Office established by the Agency for the purpose of providing program and underwriting services for private insurance companies reinsured by FCIC under the Act and for FCIC insurance contracts delivered through FSA offices.

*Secretary.* The Secretary of Agriculture.

*USDA.* United States Department of Agriculture.

[67 FR 13251, Mar. 22, 2002, as amended at 68 FR 37720, June 25, 2003]

### § 400.91 Applicability.

(a) This subpart applies to:

(1) Adverse decisions made by personnel of the Agency with respect to:

(i) Contracts of insurance insured by FCIC; and

(ii) Contracts of insurance of private insurance companies and reinsured by FCIC under the provisions of the Act.

(2) Determinations of good farming practices made by personnel of the Agency or the reinsured company (see § 400.98).

(b) This subpart is not applicable to any decision:

(1) Made by the Agency with respect to any matter arising under the terms of the Standard Reinsurance Agreement with the reinsured company; or

(2) Made by any private insurance company with respect to any contract of insurance issued to any producer by the private insurance company and reinsured by FCIC under the provisions of the Act, except for determinations of good farming practices specified in § 400.91(a)(2).

(c) With respect to matters identified in § 400.91(a)(1), participants may request an administrative review, mediation, or appeal of adverse decisions by the Agency made with respect to:

(1) Denial of participation in the crop insurance program;

(2) Compliance with terms and conditions of insurance;

(3) Issuance of payments or other program benefits to a participant in the crop insurance program; and

(4) Issuance of payments or other benefits to an individual or entity who is not a participant in the crop insurance program.

(d) Only a participant may seek an administrative review or mediation under this subpart, as applicable.

[67 FR 13251, Mar. 22, 2002, as amended at 68 FR 37720, June 25, 2003]

### § 400.92 Appeals.

(a) Except for determinations of good farming practices, nothing in this subpart prohibits a participant from filing an appeal of an adverse decision directly with NAD in accordance with part 11 of this title without first requesting administrative review or mediation under this subpart.

(b) If the participant has timely requested administrative review or mediation, the participant may not participate in a NAD hearing until such administrative review or mediation is