

Farm Service Agency, USDA

§ 780.2

Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government corporation within the U.S. Department of Agriculture.

Final decision means the program decision rendered by the county or State committee or the FCIC Regional Service Office upon written request of the participant. A decision that is otherwise final shall remain final unless the decision is timely appealed to the State committee or NAD. A decision of FSA or FCIC made by personnel subordinate to the county committee is considered "final" for the purpose of appeal to NAD only after that decision has been appealed to the county committee under the provisions of this part.

FSA means the Farm Service Agency.

NAD means the National Appeals Division, established pursuant to the 1994 Act.

NAD regulations means the National Appeals Division (NAD) rules of procedure published by the Secretary at 7 CFR part 11 implementing title II, subtitle H of the 1994 Act.

NRCS means the Natural Resource Conservation Service of the United States Department of Agriculture, formerly the Soil Conservation Service.

Reconsideration is a subsequent consideration of a prior decision by the same reviewing authority.

Regional Service Office means the regional offices established by FSA and FCIC for the purpose of making determinations for private insurance companies reinsured by FCIC under the Federal Crop Insurance Act and for FSA for insurance contracts delivered through county FSA offices (including underwriting decisions), the applicability of provisions under chapter IV of 7 CFR, and decisions as to insurability and rating of acreage.

Reviewing authority means a person or committee assigned the responsibility of making a decision on the appeal filed by the participant in accordance with this part.

State committee means an FSA State committee established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) including, where appro-

priate, the Director of the Caribbean Area FSA office for Puerto Rico and the Virgin Islands.

Technical determination of NRCS means a decision by NRCS concerning the status and condition of the natural resources based on science and on the best professional judgment of natural resource professionals within NRCS.

§ 780.2 Applicability.

(a)(1) Except as provided in other regulations, this part applies to decisions made under programs and by agencies, as set forth herein:

(i) Decisions in those domestic programs administered by the Farm Service Agency (FSA), and programs administered by FSA on behalf of the Commodity Credit Corporation (CCC) through State and county committees, which are generally set forth in chapters VII and XIV of this title;

(ii) Technical decisions made by the Natural Resources Conservation Service (NRCS) under title XII of the Food Security Act of 1985, as amended;

(iii) Decisions made by personnel of the Federal Crop Insurance Corporation ("FCIC") or FSA with respect to contracts of insurance insured by FCIC and the noninsured crop disaster assistance program;

(iv) Decisions made by personnel of FCIC or FSA with respect to contracts of insurance provided by private insurance carriers and reinsured by FCIC under the provisions of the Federal Crop Insurance Act; and

(v) Other programs to which this part is made applicable by individual program regulations.

(2) For covered programs, this part is applicable to any decision made by FSA and its State and county committees, CCC, FCIC, the personnel and agents of FSA, FCIC, or CCC, and by the officials of NRCS (to the extent provided in § 780.9), except as otherwise may be provided in individual program requirements or by the Secretary.

(3) This part is not applicable to any decision:

(i) Made by FSA or FCIC with respect to any matter arising under the terms of the Standard Reinsurance Agreement between FCIC and any private insurance company reinsured by FCIC

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under the provisions of the Federal Crop Insurance Act, as amended; or

(ii) 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 Federal Crop Insurance Act, as amended. Those insurance contracts are subject to dispute resolution through arbitration or mediation in accordance with the contract terms.

(b) With respect to matters identified in paragraph (a) of this section, participants may request reconsideration or appeal, under the provisions of this part, of decisions by an agency made with respect to:

(1) Denial of participation in a program;

(2) Compliance with program requirements;

(3) Issuance of payments or other program benefits to a participant in a program;

(4) Making payments or other benefits to an individual or entity who is not a participant in a program; or

(5) Technical determinations by NRCS.

(c) No reconsideration or appeal may be sought under this part of any general program provision or program policy, or any statutory or regulatory requirement that is applicable to all similarly situated participants.

(d) Mathematical formulas established under a statute or program regulations, and decisions based solely on the application of those formulas, are not appealable under this part.

(e) Only a participant may seek reconsideration or appeal under this part.

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§ 780.6 Mediation.

Participants have the right to seek mediation involving any decision appealed under this part in accordance with the provisions of section 282 of the 1994 Act, if the mediation program of the State where the participant's farming operation giving rise to the decision is located has been certified by the Secretary for the program involved in the agency decision. Any time limitation for review contained in this part

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will be stayed pending timely pursuit and completion of the mediation process.

§ 780.7 Reconsideration and appeals with the county and State committees and reconsideration with the regional service offices.

(a) A participant may appeal a decision of personnel subordinate to the county committee by filing with the county committee a written request for appeal that states the basis upon which the participant relies to show that:

(1) The decision was not proper and not made in accordance with applicable program policies; or

(2) All material facts were not properly considered in such decision.

(b) A participant may seek reconsideration of a final decision by a county committee or the Regional Service Office by filing a written request for reconsideration with the county committee or the Regional Service Office that states the basis upon which the participant relies to show that:

(1) The decision was not proper and not made in accordance with applicable program regulations; or

(2) All material facts were not properly considered in such decision.

(c) A participant may appeal a final decision by a county committee or the Regional Service Office to the State committee and request an informal hearing in connection therewith, by filing a written appeal with the State committee.

(d) A participant may seek reconsideration of a decision by a State committee, and request an informal hearing in connection therewith, by filing a written request for reconsideration with the State committee that states the basis upon which the participant relies to show that:

(1) The decision was not proper and not made in accordance with applicable program regulations; or

(2) All material facts were not properly considered in such decision.

(e) Nothing in this part prohibits a participant from filing an appeal of a final decision of the county committee or the Regional Service Office with NAD in accordance with the NAD regulations.