

Farm Service Agency, USDA

§ 780.8

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 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.

(f) This section does not apply to a technical determination by NRCS. Procedures regarding the appeal of a technical determination by NRCS are contained in § 780.9.

§ 780.8 Time limitations for filing requests for reconsideration or appeal.

(a) A request for reconsideration or an appeal of a decision shall be filed

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within 30 days after written notice of the decision which is the subject of the request is mailed or otherwise made available to the participant. A request for reconsideration or appeal shall be considered to have been "filed" when personally delivered in writing to the appropriate reviewing authority or when the properly addressed request, postage paid, is postmarked. A decision shall become final and non-reviewable unless reconsideration is timely sought or the decision is timely appealed.

(b) A request for reconsideration or appeal may be accepted and acted upon even though it is not filed within the time prescribed in paragraph (a) of this section if, in the judgment of the reviewing authority with whom such request is filed, the circumstances warrant such action.

§ 780.9 Appeals of NRCS technical determinations.

(a) Notwithstanding any other provision of this part, a technical determination of NRCS issued to a participant pursuant to Title XII of the Food Security Act of 1985, as amended, including wetland determinations, may be appealed to a county committee in accordance with the procedures in this part.

(b) If the county committee hears the appeal and agrees with the participant's appeal, the county committee shall refer the case with its findings to the NRCS State Conservationist to review the matter and review the technical determination. The County or State committee decision shall incorporate, and be based upon, the NRCS State Conservationist's technical determination.

§ 780.10 Other finality provisions.

The finality provisions contained in section 281 of the 1994 Act shall be applied to appeals under this part to the extent provided for in that section of the 1994 Act.

§ 780.11 Reservations of authority.

(a) Representatives of FSA, FCIC, and CCC may correct all errors in entering data on program contracts, loan agreements, and other program documents and the results of the computa-

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tions or calculations made pursuant to the contract or agreement.

(b) Nothing contained in this part shall preclude the Secretary, or the Administrator of FSA, Executive Vice President of CCC, the Manager of FCIC, the Chief of NRCS, if applicable, or a designee, from determining at any time any question arising under the programs within their respective authority or from reversing or modifying any decision made by FSA or its county and State committees, FCIC, or CCC.

PART 781—DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Sec.

- 781.1 General.
- 781.2 Definitions.
- 781.3 Reporting requirements.
- 781.4 Assessment of penalties.
- 781.5 Penalty review procedure.
- 781.6 Paperwork Reduction Act assigned number.

AUTHORITY: Sec. 1-10, 92 Stat. 1266 (7 U.S.C. 3501 *et seq.*).

SOURCE: 49 FR 35074, Sept. 6, 1984, unless otherwise noted.

§ 781.1 General.

The purpose of these regulations is to set forth the requirements designed to implement the Agricultural Foreign Investment Disclosure Act of 1978. The regulations require that a foreign person who acquires, disposes of, or holds an interest in United States agricultural land shall disclose such transactions and holdings to the Secretary of Agriculture. In particular, the regulations establish a system for the collection of information by the Agricultural Stabilization and Conservation Service (FSA) pertaining to foreign investment in United States agricultural land. The information collected will be utilized in the preparation of periodic reports to Congress and the President by the Economic Research Service (ERS) concerning the effect of such holdings upon family farms and rural communities.