

§ 614.3

7 CFR Ch. VI (1–1–08 Edition)

technical determination by the designated conservationist or the State Conservationist.

(r) *Secretary* means the Secretary of Agriculture.

(s) *State Conservationist* means the NRCS official, or his or her designee, in charge of NRCS operations within a State.

(t) *Title XII* means Title XII of the Food Security Act of 1985, as amended, 16 U.S.C. 3801 et seq.

(u) *Verbatim transcript* means the official, written record of proceedings of a hearing of an adverse program decision appealable under this part.

§ 614.3 Decisions subject to informal appeal procedures.

(a) This part applies to NRCS adverse program decisions and technical determinations made with respect to:

(1) Conservation programs and regulatory requirements authorized under Title XII, including:

- (i) Conservation Security Program;
- (ii) Conservation Reserve Program and the Conservation Reserve Enhancement Program;
- (iii) Environmental Quality Incentives Program;
- (iv) Farm and Ranch Lands Protection Program;
- (v) Grassland Reserve Program;
- (vi) Highly Erodible Land Conservation;
- (vii) Wetland Conservation;
- (viii) Wetlands Reserve Program;
- (ix) Wildlife Habitat Incentives Program; and
- (x) Conservation Innovation Grants.

(2) Non-Title XII conservation programs or provisions, including:

- (i) Agriculture Management Assistance Program;
- (ii) Emergency Watershed Protection Program;
- (iii) Soil and Water Conservation Program;
- (iv) Water Bank Program;
- (v) Watershed Protection and Flood Prevention Program; and
- (vi) Healthy Forest Reserve Program.

(3) Any other program to which this part is made applicable.

(b) With respect to matters identified in paragraph (a) of this section, participants may appeal adverse decisions concerning:

(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) Technical determinations made under Title XII;

(5) Technical determinations or program decisions that affect a participant's eligibility for USDA program benefits;

(6) The failure of an official of NRCS to issue a technical determination or program decision subject to this part; and

(7) Incorrect application of general policies, statutory or regulatory requirements.

(c) Only a participant directly affected by a program decision or a technical determination made by NRCS may invoke the informal appeal procedures contained in this part.

(d) Appeals of adverse final technical determinations and program decisions subject to this part are also covered by the NAD rules of procedure, set forth at 7 CFR part 11, and by the FSA county committee appeals process, set forth at 7 CFR part 780, for informal appeals of Title XII decisions.

§ 614.4 Decisions not subject to appeal.

(a) Decisions that are not appealable under this part include:

(1) Any general program provision, program policy, or any statutory or regulatory requirement that is applicable to all similarly situated participants, such as:

- (i) Program application ranking criteria;
- (ii) Program application screening criteria
- (iii) Published soil surveys; or
- (iv) Conservation practice technical standards included in the local field office technical guide or the electronic FOTG (eFOTG).

(2) Mathematical or scientific formulas established under a statute or program regulation and a program decision or technical determination based solely on the application of those formulas;