

(3) Decisions made pursuant to statutory provisions or implementing regulations that expressly make agency program decisions or technical determinations final;

(4) Decisions on equitable relief made by a State Conservationist or the Chief pursuant to Section 1613 of the Farm Security and Rural Investment Act of 2002, 7 U.S.C. 7996;

(5) Disapproval or denials of assistance due to lack of funding or lack of authority;

(6) Decisions that are based on technical information provided by another federal or State agency, *e.g.*, lists of endangered and threatened species; or

(7) Corrections by NRCS of errors in data entered on program contracts, easement documents, loan agreements, and other program documents.

(b) Complaints involving discrimination in program delivery are not appealable under this part and are handled under the existing USDA civil rights rules and regulations.

(c) Appeals related to contractual issues that are subject to the jurisdiction of the Agriculture Board of Contract Appeals are not appealable under the procedures within this part.

(d) Enforcement actions under conservation easement programs administered by NRCS.

§ 614.5 Reservation of authority.

The Secretary of Agriculture, the Chief of NRCS, if applicable, or a designee, reserve the right to make a determination at any time on any question arising under the programs covered under this part within their respective authority, including reversing or modifying in writing, with sufficient reason given therefore, any decision or technical determination made by an NRCS official.

§ 614.6 Agency records and decision notices.

(a) All NRCS decisions under this part are based upon an agency record. NRCS will supplement the agency record, as appropriate, during the informal appeals process.

(b) NRCS notifies participants of the agency's preliminary and final technical determinations and program decisions through decision notices. By cer-

tified mail return receipt requested, NRCS will send to the participant a decision notice within 10 working days of rendering a technical determination or program decision. In lieu of certified mail, NRCS may hand deliver notices to participants with written acknowledgment of delivery by the participant. Each decision notice contains the following:

(1) The factual basis for the technical determination or program;

(2) The regulatory, statutory, and/or policy basis for the technical determination or program decision; and

(3) Information regarding any informal appeal rights available under this part; the process for requesting such appeal; and the procedure for requesting further review before the FSA county committee pursuant to 7 CFR 780 or NAD pursuant to 7 CFR part 11, if applicable.

§ 614.7 Preliminary technical determinations.

(a) A preliminary technical determination becomes final 30 days after the participant receives the decision, unless the participant files an appeal with the appropriate NRCS official as indicated in the decision notice requesting:

(1) Reconsideration with a field visit in accordance with paragraphs (b) and (c) of this section; or

(2) Mediation as set forth in § 614.11.

(b) If the participant requests reconsideration with a field visit, the designated conservationist, participant, and, at the option of the conservation district, a district representative will visit the subject site for the purpose of gathering additional information and discussing the facts relating to the preliminary technical determination. The participant may also provide any additional documentation to the designated conservationist. Within 15 days of the field visit, the designated conservationist, based upon the agency record as supplemented by the field visit and any participant submissions, will reconsider his or her preliminary technical determination. If the reconsidered determination is no longer adverse