

§614.8

to the participant, the designated conservationist issues the reconsidered determination as a final technical determination. If the preliminary technical determination remains adverse, then the designated conservationist will forward the revised decision and agency record to the State Conservationist for a final determination pursuant to paragraph (c) of this section, unless further appeal is waived in writing by the participant in accordance with paragraph (d) of this section.

(c) The State Conservationist will issue a final technical determination to the participant as soon as is practicable after receiving the reconsideration and agency record from the designated conservationist. The technical determination issued by the State Conservationist becomes a final NRCS decision upon receipt by the participant. Receipt triggers the running of the 30 day appeal period to NAD, or, if applicable, to the FSA county committee.

(d) In order to address resource issues on the ground immediately, a participant may waive, in writing to the State Conservationist, appeal rights so that a preliminary technical decision becomes final before the expiration of the 30 day appeal period.

§614.8 Final technical determinations.

(a) Preliminary technical determinations become final and appealable:

(1) 30 days after receipt of the preliminary technical decision by the participant unless the determination is appealed in a timely manner as provided for in this regulation.

(2) 30 calendar days after the beginning of a mediation session if a mutual agreement has not been reached by the parties; or

(3) Upon receipt by the participant of the final technical determination issued on reconsideration as provided above in §614.7(c).

(b) The participant may appeal the final technical determination to:

(1) The FSA county committee pursuant to 7 CFR part 780 if the determination is made under Title XII; or

(2) NAD pursuant to 7 CFR part 11.

§614.9 Program decisions.

(a) Program decisions are final upon receipt of the program decision notice

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by the participant. The participant has the following options for appeal of the program decision:

(1) An informal hearing before NRCS as provided for in paragraphs (b) through (d) of this section;

(2) Mediation as provided for at §614.11; or

(3) A hearing before NAD pursuant to 7 CFR part 11 or, if the program decision is made under Title XII, appeal before the FSA county committee pursuant to 7 CFR part 780.

(b) A program participant must file an appeal request for a hearing with the appropriate State Conservationist as indicated in the decision notice within 30 calendar days from the date the participant received the program decision.

(c) The State Conservationist may accept a hearing request that is untimely filed under paragraph (b) of this section if the State Conservationist determines that circumstances warrant such an action.

(d) The State Conservationist will hold a hearing no later than 30 days from the date that the appeal request was received. The State Conservationist will issue a written final NRCS decision no later than 30 days from the close of the hearing.

§614.10 Appeals before the Farm Service Agency county committee.

(a) In accordance with 7 CFR part 780, a participant may appeal a final technical determination or a program decision to the FSA county committee for those decisions made under Title XII.

(b) When the FSA county committee hearing the appeal requests review of the technical determination by the applicable State Conservationist prior to issuing their decision, the State Conservationist will:

(1) Designate an appropriate NRCS official to gather any additional information necessary for review of the technical determination;

(2) Obtain additional oral and documentary evidence from any party with personal or expert knowledge about the facts under review;