

§ 780.7

(6) Mediation under guidelines specified in § 780.9.

(b) For decisions in agricultural credit programs administered by FSA, the following procedures are available:

- (1) Reconsideration under § 780.7;
- (2) Mediation under § 780.9;
- (3) Appeal to NAD.

(c) For programs and regulatory requirements under Title XII of the Food Security Act of 1985, as amended, to the extent not covered by paragraph (a) of this section, the following procedures are available:

- (1) Appeal to the county committee;
- (2) Appeal to the State committee;
- (3) Mediation under § 780.9;
- (4) Appeal to NAD.

§ 780.7 Reconsideration.

(a) A request for reconsideration must be submitted in writing by a participant or by a participant's authorized representative and addressed to the FSA decision maker as will be instructed in the adverse decision notification.

(b) A participant's right to request reconsideration is waived if, before requesting reconsideration, a participant:

- (1) Has requested and begun mediation of the adverse decision;
- (2) Has appealed the adverse decision to a higher reviewing authority in FSA; or
- (3) Has appealed to NAD.

(c) Provided a participant has not waived the right to request reconsideration, FSA will consider a request for reconsideration of an adverse decision under these rules except when a request concerns a determination of NRCS appealable under the procedures in § 780.11, the decision has been mediated, the decision has previously been reconsidered, or the decision-maker is the Administrator, Deputy Administrator, or other FSA official outside FSA's informal appeals process.

(d) A request for reconsideration will be deemed withdrawn if a participant requests mediation or appeals to a higher reviewing authority within FSA or requests an appeal by NAD before a request for reconsideration has been acted upon.

(e) The Federal Rules of Evidence do not apply to reconsiderations. Pro-

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ceedings may be confined to presentations of evidence to material facts, and evidence or questions that are irrelevant, unduly repetitious, or otherwise inappropriate may be excluded.

(f) The official decision on reconsideration will be the decision letter that is issued following disposition of the reconsideration request.

(g) A decision on reconsideration is a new decision that restarts applicable time limitations periods under § 780.15 and part 11 of this title.

[70 FR 43266, July 27, 2005, as amended at 71 FR 30573, May 30, 2006]

§ 780.8 County committee appeals.

(a) A request for appeal to a county committee concerning a decision of a subordinate of the county committee must be submitted by a participant or by a participant's authorized representative in writing and must be addressed to the office in which the subordinate is employed.

(b) The Federal Rules of Evidence do not apply to appeals to a county committee. However, a county committee may confine presentations of evidence to material facts and may exclude evidence or questions that are irrelevant, unduly repetitious, or otherwise inappropriate.

(c) The official county committee decision on an appeal will be the decision letter that is issued following disposition of the appeal.

(d) Deliberations shall be in confidence except to the extent that a county committee may request the assistance of county committee or FSA employees during deliberations.

§ 780.9 Mediation.

(a) Any request for mediation must be submitted after issuance of an adverse decision but before any hearing in an appeal of the adverse decision to NAD.

(b) An adverse decision and any particular issues of fact material to an adverse decision may be mediated only once:

- (1) If resolution of an adverse decision is not achieved in mediation, a participant may exercise any remaining appeal rights under this part or appeal to NAD in accordance with part 11 of this title and NAD procedures.