



Natural Resources Conservation Service
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KANSAS BULLETIN NO. KS300-13-1

SUBJECT: LTP–Appeals Process for Adverse Decisions

Purpose. Provide all Natural Resources Conservation Service (NRCS) area and field office personnel guidance on the appeals process

Expiration Date. September 30, 2014

Anytime a program participant is issued an adverse decision, either technical or programmatic, they are to be provided appeal rights. It is necessary for all NRCS personnel to know and understand the protocol for the appeals process and be able to explain the process to participants. If a participant's questions cannot be answered at the NRCS field office level, the participant should be referred to the NRCS area office level before they are referred to the NRCS state office. Appeals policy is found in Title 440-Conservation Programs Manual, Part 510.

Program Decisions

Program decisions are considered final when they are issued and are to be sent by certified-return receipt requested letter. If the letter is returned as "undeliverable," another certified-return receipt requested letter along with a noncertified letter will be sent to the participant simultaneously. Attachment 1 is a sample letter for your reference.

A participant's appeal or mediation request must be received in writing within 30–calendar days from receiving the adverse letter. The participant may request any of the following:

- An informal hearing with the NRCS state conservationist (STC)
- An appeal to the Farm Service Agency (FSA) County Committee (COC)
- Mediation using the Kansas Agriculture Mediation Service
- A formal appeal to the National Appeals Division (NAD)

(more)

DIST: A, F, S, Burr, Franklin, C. Nelson, Volkman

On issues considered not appealable, a participant may request an appealability review to the NAD director who will determine whether or not the action is appealable.

Participants may request an informal hearing with the NRCS STC or appeal to FSA COC, but not both at the same time. Participants may request mediation or make formal appeal to the NAD but not at the same time. However, participants may make a formal appeal to the NAD at the same time they request an informal hearing to the NRCS STC or appeal to the FSA COC.

When a participant formally appeals to the NAD first, the NAD ruling is final and cannot be reversed (e.g., a participant appeals to the NAD and receives a ruling, they cannot then decide to appeal to the NRCS STC).

When a participant requests mediation, the 30–calendar–day period is paused when the mediation request is made. If the mediation is unsuccessful, the participant has the balance of the time to request the remaining options. If the mediation is successful, the participant must waive all appeal and judicial rights as to the issues resolved by the settlement agreement. Refer to Title 7 Code of Federal Regulations, Sections 614.11(c) and 614.11(d).

Once a participant chooses **one** of the aforementioned, they may not use that option again for the same issue; however, they may request any one of the remaining options.

Technical Determinations

If not appealed, a preliminary technical determination become final 30–calendar days after participant receipt of determination. Participants may appeal a preliminary technical decision by either requesting reconsideration or through mediation. If the decision remains adverse, the participant may request an informal hearing with the STC. The STC decision is considered a final technical decision. Participants may then make a formal appeal to the NAD director or the FSA COC within 30–calendar days of the receipt of the original preliminary technical determination.

Attachment 2 is quick reference flow chart to the appeals process.

Contact: Forward questions, through established channels, to Joni Y. Franklin, Resource Conservationist, at 785-823-4556, or email joni.franklin@ks.usda.gov.

(Signed)

ERIC B. BANKS
State Conservationist

Attachments