

within a State, as set forth in part 600 of this chapter.

Technical determination means a conclusion concerning the status and condition of the natural resources and cultural practices based on science and best professional judgment of natural resource professionals concerning the soils, water, air, plants, and animals.

Refer to 7 CFR 11.1 for other definitions applicable to appeals of adverse technical determinations and decisions covered by this part.

§614.3 Applicability.

(a) Appeals of adverse technical determinations and adverse decisions covered by this part are also governed by National Appeals Division (NAD) regulations at 7 CFR part 11.

(b) Decisions which are subject to this part include any decision under one or more NRCS programs; and technical determinations or decisions that affect the status of the land even though they may not affect the landowner's or program participant's eligibility for USDA program benefits.

(c) The failure of an official of NRCS to issue a technical determination or decision is subject to this part.

(d) Complaints involving discrimination in program delivery will be handled under the existing USDA civil rights rules and regulations.

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

§614.4 Reservation of authority.

Nothing contained in the regulations of this part shall preclude the Secretary of Agriculture or the Chief from determining at any time any question arising under the programs to which the regulations of this part apply, or from reversing or modifying in writing, with sufficient reason given therefore, any technical determination or decision made by an NRCS official.

§614.5 Decisions not subject to appeal.

The following are examples of decisions which are not appealable:

(a) General program requirements that apply to all participants;

(b) Science-based formulas and criteria;

(c) Procedural decisions relating to administration of the programs; and

(d) Denials of assistance due to lack of funds or authority.

Subpart B—Appeals of Technical Determinations Related to the Conservation Title (Title XII) of the Food Security Act of 1985, as Amended

§614.100 Applicability.

The provisions of this subpart set forth the procedures under which a landowner or program participant may seek mediation of a preliminary technical determination or appeal from technical determinations made by NRCS officials on or after January 16, 1996 regarding technical determinations within the following programs:

(1) Highly Erodible Land Conservation;

(2) Wetland Conservation, including wetland technical determinations made by NRCS officials not related to a request for USDA program benefits;

(3) Conservation Reserve Program;

(4) Wetlands Reserve Program;

(5) Agricultural Water Quality Incentives Program; and

(6) Environmental Easement Program.

§614.101 Notice of preliminary technical determinations.

(a) All preliminary technical determinations related to programs provided for in §614.100 shall be in writing and shall inform the landowner or program participant of the following:

(1) The preliminary technical determination will become final after 30 days if the landowner or program participant does not arrange with the designated conservationist for either or both of the following options:

(i) A field visit to the site to gather additional information and to discuss the facts concerning the preliminary technical determination, together with, at the option of the conservation district, a district representative; and

(ii) Mediation.