

§ 780.6

(c) Decisions that FSA renders under this part may be reviewed by NAD under part 11 of this title to the extent otherwise allowed by NAD under its rules and procedures. An appealability determination of the State Executive Director in an administrative review is considered by FSA to be a new decision.

§ 780.6 Appeal procedures available when a decision is appealable.

(a) For covered programs administered by FSA for CCC, the following procedures are available:

- (1) Appeal to the county committee of decisions of county committee subordinates;
- (2) Reconsideration by the county committee;
- (3) Appeal to the State committee;
- (4) Reconsideration by the State committee;
- (5) Appeal to NAD;
- (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(d) A request for reconsideration will be deemed withdrawn if a participant requests mediation or appeals to a higher reviewing authority within FSA or requests an appeal by NAD before a request for reconsideration has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. Proceedings 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.