

Farm Service Agency, USDA

§ 780.2

AUTHORITY: 5 U.S.C. 301 and 574; 7 U.S.C. 6995; 15 U.S.C. 714b and 714c; 16 U.S.C. 590h.

SOURCE: 70 FR 43266, July 27, 2005, unless otherwise noted.

§ 780.1 General.

This part sets forth rules applicable to appealability reviews, reconsiderations, appeals and alternative dispute resolution procedures comprising in aggregate the informal appeals process of FSA. FSA will apply these rules to facilitate and expedite participants' submissions and FSA reviews of documentary and other evidence material to resolution of disputes arising under agency program regulations.

§ 780.2 Definitions.

For purposes of this part:

1994 Act means the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354).

Adverse decision means a program decision by an employee, officer, or committee of FSA that is adverse to the participant. The term includes any denial of program participation, benefits, written agreements, eligibility, etc., that results in a participant receiving less funds than the participant believes should have been paid or not receiving a program benefit to which the participant believes the participant was entitled.

Agency means FSA and its county and State committees and their personnel, CCC, NRCS, and any other agency or office of the Department which the Secretary may designate, or any successor agency.

Agency record means all documents and materials maintained by FSA that are related to the adverse decision under review that are compiled and reviewed by the decision-maker or that are compiled in the record provided to the next level reviewing authority.

Appeal means a written request by a participant asking the next level reviewing authority within FSA to review a decision. However, depending on the context, the term may also refer to a request for review by NAD.

Appealability review means review of a decision-maker's determination that a decision is not appealable under this part. That decision is, however, subject

to review according to § 780.5 or 7 CFR part 11 to determine whether the decision involves a factual dispute that is appealable or is, instead, an attempt to challenge generally applicable program policies, provisions, regulations, or statutes that were not appealable.

Appellant means any participant who appeals or requests reconsideration or mediation of an adverse decision in accordance with this part or 7 CFR part 11.

Authorized representative means a person who has obtained a Privacy Act waiver and is authorized in writing by a participant to act for the participant in a reconsideration, mediation, or appeal.

CCC means the Commodity Credit Corporation, a wholly owned Government corporation within USDA.

Certified State means, in connection with mediation, a State with a mediation program, approved by the Secretary, that meets the requirements of 7 CFR part 785.

Confidential mediation means a mediation process in which neither the mediator nor parties participating in mediation will disclose to any person oral or written communications provided to the mediator in confidence, except as allowed by 5 U.S.C. 574 or 7 CFR part 785.

County committee means an FSA county or area committee established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

Determination of NRCS means a decision by NRCS made pursuant to Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*), as amended.

FSA means the Farm Service Agency, an agency within USDA.

Final decision means a program decision rendered by an employee or officer of FSA pursuant to delegated authority, or by the county or State committee upon written request of a participant. A decision that is otherwise final shall remain final unless the decision is timely appealed to the State committee or NAD. A decision of FSA made by personnel subordinate to the county committee is considered "final" for the purpose of appeal to NAD only after that decision has been