

## § 612.7

western states areas. NRCS offices are described in part 600 of this chapter.

### § 612.7 Forecast user responsibility.

The forecast user's obligation to the federal government is to give appropriate credit and recognition to NRCS for information furnished. The Federal Government does not assume any responsibility for management decisions the user makes which may be based in whole or part on information provided by NRCS.

## PART 613—PLANT MATERIALS CENTERS

Sec.

613.1 Purpose.

613.2 Policy and objectives.

613.3 NRCS responsibilities in plant materials.

613.4 Special production of plant materials.

613.5 PMCs.

AUTHORITY: 16 U.S.C. 590a–590f, 5908; 7 U.S.C. 1010–1011.

SOURCE: 73 FR 51351, Sept. 3, 2008, unless otherwise noted.

### § 613.1 Purpose.

This part provides NRCS policy on the operation of PMCs. The Centers have responsibilities for assembling, testing, releasing, and providing for the commercial production and use of plant materials and plant materials technology for programs of soil, water, and related resource conservation and development.

### § 613.2 Policy and objectives.

(a) It is NRCS policy to assemble, comparatively evaluate, release, and distribute for commercial increase new or improved plant materials and plant materials technology needed for broad programs of resource conservation and development for agriculture, wildlife, urban, recreation, and other land uses and environmental needs. It is the policy of NRCS to conduct plant materials work in cooperation with other agencies of the Department of Agriculture, such as the Agricultural Research Service, and with other Federal and State research agencies, including State agricultural experiment stations. The emphasis of the NRCS plant materials work is to find suitable plants to

## 7 CFR Ch. VI (1–1–16 Edition)

address conservation needs. In contrast, the emphasis of research agencies and organizations in plant development is to improve economically important crops. The NRCS program of testing and releasing new seed-propagated plant materials follows the guidelines in “Statement of Responsibilities and Policies Relating to the Development, Release, and Multiplication of Publicly Developed Varieties of Seed-Propagated Crops,” which was adopted in June 1972, by Land Grant Colleges and interested Federal agencies. NRCS releases improved conservation plant materials requiring vegetative multiplication in ways appropriate for particular States and particular species by working with experiment stations, crop improvement associations, and other State and Federal agencies.

(b) The objective of the plant materials activity is to select or develop special and improved plants and techniques for their successful establishment and maintenance to solve conservation problems and needs related to:

- (1) Controlling soil erosion on all lands;
- (2) Conserving water;
- (3) Protecting upstream watersheds;
- (4) Reducing sediment movement into waterways and reservoirs through the stabilization of critical sediment sources, such as surface mined lands, highway slopes, recreation sites, and urban and industrial development areas;
- (5) Stabilizing disposal areas for liquid and solid wastes;
- (6) Improving plant diversity and lengthening the grazing season on dryland pastures and rangelands;
- (7) Managing brush on mountain slopes with fire-retarding plant cover to reduce the possibility of fires that threaten life and property, or result in serious sediment sources;
- (8) Improving the effectiveness of windbreaks and shelterbelts for reducing airborne sediment, controlling snow drifting, and preventing crop damage from wind erosion;
- (9) Protecting streambank, pond, and lake waterlines from erosion by scouring and wave action;

(10) Improving wildlife food and cover, including threatened and endangered and pollinator species;

(11) Selecting special purpose plants to meet specific needs for environment protection and enhancement;

(12) Selecting plants that tolerate air pollution agents and toxic soil chemicals;

(13) Selecting plants that mitigate odor, Particulate Matter (PM)-10, and PM-2.5;

(14) Testing plants for biofuels and other energy-related activities; and

(15) Evaluating plants and techniques to combat invasive plant species and for reestablishment of desirable species after eradication.

**§ 613.3 NRCS responsibilities in plant materials.**

NRCS operates or enters into agreements with State universities or other State organizations to operate PMCs. NRCS also cooperates, both formally and informally, with other Federal, State, county, and nonprofit agencies or organizations on the selection of plants and evaluation of plant technology to increase the capabilities of PMCs. NRCS employs specialists for testing and selecting plant materials for conservation uses and the development of plant materials technology. NRCS' responsibilities are to:

(a) Identify the resource conservation needs and cultural management methods for environmental protection and enhancement.

(b) Assemble and comparatively evaluate plant materials at PMCs and on sites where soil, climate, or other conditions differ significantly from those at the Centers.

(c) Make comparative field plantings for final testing of promising plants and techniques in cooperation with conservation districts and other interested cooperators.

(d) Release cooperatively improved conservation plants and maintain the breeder or foundation stocks in ways appropriate for particular State and plant species by working with experiment stations, crop improvement associations, and other State and Federal agencies.

(e) Produce limited amounts of foundation or foundation-quality seed and

plants available for allocation to conservation districts, experiment stations, other Federal and State research agencies, State seed certifying organizations and directly to commercial growers (if other options do not exist) that will use the material to establish seed fields, seed orchards, or vegetative plantings for large-scale increase.

(f) Encourage and assist conservation districts, commercial seed producers, and commercial and State nurseries to produce needed plant materials for conservation uses.

(g) Encourage the use of improved plant materials and plant materials technology in resource conservation and environmental improvement programs.

**§ 613.4 Special production of plant materials.**

NRCS can produce plant materials in the quantity required to do a specific conservation job if this production will serve the public welfare and only if the plant materials are not available commercially. This function will be performed only until the plant materials are available commercially. Specific production of plant materials by NRCS requires the approval of the Chief.

**§ 613.5 PMCs.**

(a) *The Norman A. Berg National PMC.* The Norman A. Berg National PMC at Beltsville, Maryland, focuses on national initiatives and provides coordination for plant materials work across all 50 States. In addition, the center provides plants and plant technology to address resource concerns in the mid-Atlantic region.

(b) *Other PMCs.* There are 26 other PMCs. Each serves several major land resource areas. NRCS operates 24 of these Centers, and 2 by cooperating agencies, as follows:

(1) Operated by NRCS: Tucson, AZ, Booneville, AR, Lockeford, CA, Brooksville, FL, Americus, GA, Molokai, HI, Aberdeen, ID, Manhattan, KS, Galliano, LA, East Lansing, MI, Coffeerville, MS, Elsberry, MO, Bridger, MT, Fallon, NV, Cape May Courthouse, NJ, Los Lunas, NM, Big Flats, NY, Bismarck, ND, Corvallis, OR, Kingsville, TX, Knox City, TX, Nacogdoches, TX, Pullman, WA, and Alderson, WV.

(2) Operated by cooperating agencies with financial and technical assistance from NRCS: Meekeer, CO—White River and Douglas Creek Soil Conservation Districts with partial funding from NRCS.

(3) Operated by cooperating agencies with technical assistance from NRCS: Palmer, AK—State of Alaska, Department of Natural Resources.

### PART 614—NRCS APPEAL PROCEDURES

Sec.

- 614.1 General.
- 614.2 Definitions.
- 614.3 Decisions subject to informal appeal procedures.
- 614.4 Decisions not subject to informal appeal procedures.
- 614.5 Reservation of authority.
- 614.6 Agency records and decision notices.
- 614.7 Preliminary technical determinations.
- 614.8 Final technical determinations.
- 614.9 Program decisions.
- 614.10 Appeals before the Farm Service Agency county committee.
- 614.11 Mediation.
- 614.12 Transcripts.
- 614.13 Appealability review.
- 614.14 Computation of time.
- 614.15 Implementation of final NAD decisions.
- 614.16 Participation of third parties in NRCS proceedings.
- 614.17 Judicial review.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 6932 and 6995; and 16 U.S.C. 3822(a).

SOURCE: 77 FR 34190, June 11, 2012, unless otherwise noted.

#### § 614.1 General.

This part sets forth the informal appeal procedures under which a participant may appeal adverse technical determinations or program decisions made by officials of the Natural Resources Conservation Service (NRCS), an agency under the Department of Agriculture (USDA). These regulations reflect NRCS policy to resolve at the agency level, to the greatest extent possible, disputes arising from adverse technical determinations and program decisions made by NRCS. Once a decision is rendered final by NRCS, participants may appeal to the National Appeals Division (NAD) as provided for under 7 CFR part 11, or to the Farm Service Agency (FSA) county com-

mittee pursuant to 7 CFR part 780 for decisions rendered under Title XII of the Food Security Act of 1985, as amended, 16 U.S.C. 3801 *et seq.* (Title XII).

#### § 614.2 Definitions.

The following definitions are applicable for the purposes of this part:

*Adverse decision* means the final technical determination or the program decision issued by NRCS that is adverse to the individual participant and not a matter of general applicability.

*Agency* means NRCS and its employees.

*Agency exhibit* means those documents or materials that are used during the hearing to further explain, differentiate, or distinguish a point, concept, or criteria in an appeal but that were not those materials or documents that the agency relied upon in making the adverse decision. Agency exhibits are labeled alphabetically A, B, C, etc., with total pages in each exhibit numbered.

*Agency record* means all documents and materials, including documents submitted by the participant and those generated by NRCS, which the agency relies upon and bases its program decision or technical determination. The agency record will include all documents relevant to the adverse decision. NRCS maintains the agency record and will, upon request or appeal, make available a copy of the agency record for a specific adverse decision to the participant(s) involved in the dispute. Agency record documents are labeled numerically 1, 2, 3, etc., in the lower right hand of the document.

*Appeal* means a written request by a participant asking for review (including mediation) of an adverse NRCS technical determination or program decision under this part. An appeal must set out the reason(s) for appeal and include any supporting documentation. An appeal is considered filed when the participant's request has been received by the accepting official as indicated in the adverse decision notice.

*Chief* means the Chief of NRCS or his or her designee.

*Commodity Credit Corporation* means a wholly owned government corporation within USDA.