

mediator shall notify the designated conservationist in writing at the end of this period whether the parties reached an agreement. Any agreement reached during, or as a result of, the mediation process shall conform to the statutory, regulatory, and manual provisions governing the program.

#### **§ 614.103 Final determinations.**

(a) Preliminary technical determinations shall become final:

(1) 30 days after receipt by the landowner or program participant of the notice of a preliminary technical determination issued pursuant to § 614.101, unless a field visit or mediation is requested;

(2) After the earlier of 30 days after the field visit provided for under § 614.101(a) or receipt by the landowner or program participant of a final determination from the designated conservationist; or

(3) 30 days after a mediation session if a mutual agreement has not been reached by the parties.

(b) The final technical determination shall set forth the decision, the basis for the decision, including all factors, technical criteria, and facts relied upon in making the decision, and shall inform the landowner or program participant of the procedure for requesting and pursuing further review.

#### **§ 614.104 Appeals of technical determinations.**

(a) Technical determinations related to the programs in § 614.100 may only be appealed, pursuant to the provisions of 7 CFR part 780, to the FSA county committee with jurisdiction.

(b) In cases where a field visit has not already been completed in accordance with § 614.101(a), a field visit shall be completed by the designated conservationist before the FSA county committee considers the appeal.

(c) If the FSA county committee hearing the appeal requests review of the technical determination by the applicable State Conservationist prior to issuing their decision, the State Conservationist may:

(1) Designate an appropriate NRCS official to gather any additional information necessary for review of the technical determination;

(2) Obtain additional oral and documentary evidence from any party with personal or expert knowledge about the facts under review; and

(3) Conduct a field visit to review and obtain additional information and to discuss the facts concerning the technical determination. The State Conservationist shall provide the applicable FSA county committee with

a written technical determination, including all factors, technical criteria, and facts relied upon in making the technical determination.

(d) Any landowner or program participant who is adversely affected by a decision of the FSA county committee may appeal to NAD in accordance with 7 CFR part 11.

### **Subpart C—Appeals of Decisions Related to Conservation Programs (non-Title XII)**

#### **§ 614.200 Applicability.**

The provisions of this subpart set forth the procedures under which a landowner or program participant may seek an informal hearing on adverse decisions made by NRCS officials (exclusive of those decisions that are appealable to the USDA Board of Contract Appeals) after January 16, 1996 in the following program areas:

- (1) Great Plains Conservation Program;
- (2) Rural Abandoned Mine Program;
- (3) Emergency Watershed Projects;
- (4) Rural Clean Water Program;
- (5) Colorado River Basin Salinity Control Program;
- (6) Forestry Incentive Program;
- (7) Water Bank Program;
- (8) Flood Prevention and Watershed Protection Programs;

(9) Any other program which subsequently incorporates these procedures through reference to this subpart within the program regulations.

#### **§ 614.201 Notice of final decisions.**

(a) All final decisions related to programs provided for in § 614.200 that are made by the designated conservationist shall be in writing and shall inform the landowner or program participant of their right to request any or all of the following:

- (1) An informal hearing before NRCS;
- (2) Mediation; or
- (3) A hearing before NAD in accordance with 7 CFR part 11.

(b) The document containing the decision shall be mailed or hand delivered to the landowner or program participant.

#### **§ 614.202 Time frames for filing requests for informal hearings.**

(a) A request for an informal hearing before NRCS shall be filed within 30 days after written notice of the final decision, which is the subject of the request, is mailed or otherwise made available to the landowner or program participant. A request for an informal hearing shall be considered "filed" when personally delivered in writing to the appropriate reviewing authority or when the properly addressed request, postage paid, is postmarked.

(b) A request for appeal may be accepted and acted upon even though it is not filed within the time prescribed in paragraph (a) of this section if, in the judgment of the reviewing authority with whom such request is filed, the circumstances warrant such action.

#### **§ 614.203 Mediation of adverse final decisions.**

(a) Any dispute with respect to an adverse final decision related to the programs provided in § 614.200 shall, at the request of the landowner or program, be mediated:

(1) Through certified individual in those States where a State Mediation Program has been established. Conservation district officials in certified State Mediation Program States may become certified by the State and utilized for mediation, if they choose to participate.

(2) In States where no certified mediation program is in effect, through mediation by a qualified representative of a local conservation district, if a local conservation district chooses to participate. Upon mutual agreement of the parties, other individuals may serve as mediators.

(b)(1) The parties shall have not more than 30 days to reach an agreement following a mediation session. The mediator shall notify the designated conservationist in writing at the end of this period whether the parties reached an agreement.

(2) Any agreement reached during, or as a result of, the mediation process shall conform to the statutory, regulatory, and manual provisions governing the program.

(3) If the parties fail to reach an agreement within the specified period, the designated conservationist shall have up to 30 days after the conclusion of mediation to issue a final decision.

#### **§ 614.204 Appeals of adverse final decisions.**

(a) Any landowner or program participant, who is adversely affected by a decision made by a designated conservationist related to the programs in § 614.200, may appeal the decision to the State Conservationist in the applicable State for an informal hearing or to NAD in accordance with 7 CFR part 11.

(b) The State Conservationist may designate a NRCS official to gather information and conduct the informal hearing before making a decision.

(c) Any landowner or program participant who is adversely affected by a decision of the State Conservationist may appeal to NAD in accordance with 7 CFR part 11.