**United States Department of Agriculture**

Natural Resources Conservation Service

**Arizona Fact Sheet**

**March 2013**

**How to Appeal Adverse NRCS Technical and Program Decisions**

**What is an Appeal?**



Today, with all of the opportunities provided in the Farm Bill to implement conservation on private lands, Natural Resources Conservation Service (NRCS) staff makes decisions that impact farm program participation and program payments. Sometimes those decisions can be perceived as adverse to the producer. If the producer does not agree with the decision, the producer’s recourse is to file an appeal to the agency regarding

the decision.

**Why Appeal?**

An appeal says, “Hey, take another look at this.” It is possible NRCS was unaware of particular information or possibly even made a mistake. When an appeal

is filed to the NRCS, the State Conservationist will direct agency staff from another area to review the basis for the decision. This “second look” will ensure that no errors were made and all pertinent facts were considered.

**What is Appealable?**

Issues that are potentially appealable fall into two basic categories: technical decisions and program decisions. Not all NRCS decisions are appealable. Some

decisions are protected within agency rules and are not subject to appeals.

**Examples of appealable items are:**

• Denial to participate in a conservation program;

• Incorrect application of general policies;

• Technical decisions such as wetland designation; and

• Potential NRCS mistakes or miscalculations

**Examples of decisions that are not appealable include:**

• Program provisions that are applied to everyone

• Program application screening criteria

• Information in soil surveys

• Mathematical or scientific formulas

• Denials of financial assistance due to lack of funds

**What if I Don’t Agree With an NRCS Technical Decision?**

If you do not agree with a technical decision made by the NRCS that is adverse to you, you may appeal the decision. To begin the appeal process you must submit a written appeal to your local NRCS office within 30 days of receiving the adverse decision. At that time you may request:

1. An NRCS reconsideration with a field visit, or

2. Mediation (Note: if there is not an USDA- approved mediators. There are mediators available in the state; however, you may have to bear the mediator cost.)

What happens during a reconsideration with a field

visit?

1. Upon receipt of an appeal for a technical decision, the local NRCS conservationist will make a field visit and review the data upon which the adverse decision was made.

a. If the local conservationist changes the original decision and the decision is no longer adverse to the participant, the local conservationist issues the decision as the final technical determination.

b. If the local conservationist does not change the original decision and the decision remains adverse to the participant, the local conservationist will forward the information to the NRCS State Conservationist for further review.

2. The State Conservationist will direct other NRCS

staff to review the background data and the

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technical determination. Based on this review, the State Conservationist will issue a final technical determination.

3. If the final technical determination is still adverse to the producer, the State Conservationist will notify the participant in writing and include appeal rights

of the final technical determination to either:

a. The local Farm Services Agency County

Committee (FSA COC) or

b. The National Appeals Division (NAD)

**What if I Don’t Agree With an NRCS Program Decision?**

If you do not agree with a decision regarding one of NRCS’ conservation programs and the decision is adverse to you, you must submit a written appeal to the local NRCS office requesting one of the following options for review:

1. Appeal to the Arizona NRCS State

Conservationist for an informal hearing

2. Appeal before the Farm Services Agency County

Committee (FSA COC)

3. Appeal to the National Appeals Division (NAD)

4. Mediation

**Appeal to the NRCS State Conservationist for an informal hearing**

The participant must submit a written appeal requesting an informal hearing with the NRCS State Conservationist within 30 days of the adverse decision. The State Conservationist will hold an informal hearing within 30 days of receiving the written appeal request. The participant will have the opportunity to present new evidence and present a case showing why the NRCS decision should be changed. The State Conservationist will review this information and issue a final program decision within 30 days of the hearing.

If you still do not agree with the State Conservationist’s

final decision, you may still appeal to NAD.

**What if NRCS Says a Decision Isn’t**

**Appealable and I Think It Should Be?**

If you are told that an adverse decision is not appealable by the local NRCS office and you believe that it should be, you can request an appealability review. To request an appealability review, write to:

• The Arizona NRCS State Conservationist or

• The National Appeals Division

**NRCS’ Service Goal**

NRCS strives to provide the best conservation- related advice and decisions possible. We make recommendations and decisions based on sound science and established agency policies. All NRCS

recommendations and decisions should be fully explained to each customer. If an NRCS decision is adverse to a participant, a second review by NRCS provides a quick, cost-effective resolution to many program and technical disputes.

**To contact the Arizona NRCS State Conservationist:**

Keisha Tatum, State Conservationist

Natural Resources Conservation Service

230 First Street Avenue, suite 509

Phoenix, Arizona 85003-1733

**To contact the National Appeals Division:**

U.S. Department of Agriculture National Appeals Division (NAD) Western Regional Office

755 Parfet Street, Suite 494

Lakewood, CO 80215-5599

**To contact the Farm Service Agency County**

**Committee:**

Contact the USDA service center in your county.

**To obtain potential mediators in Arizona:**

Visit the National Roster of Environmental Conflict Resolution Practitioners at <http://www.ecr.gov/resources/rostermembermap.aspx> or the Mediation Center of the National Association for Community Mediation at <http://www.nafcm.org/public/findhelp>.

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