

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Program Appeals, Mediation, and Litigation**  
**1-APP (Revision 2)**

**Amendment 16**

**Approved by:** Administrator



**Amendment Transmittal**

**A Reason for Amendment**

Subparagraphs 14 G and 34 A have been amended to correct the regulatory citation to 7 CFR 7.34.

Page Control Chart		
TC	Text	Exhibit
	2-15, 2-16 3-5, 3-6	



**14 Mandatory Language to Insert in Adverse Decision Letters (Continued)****F Appeal to NAD**

The following is the **mandatory** language to insert in adverse decision letters:

“You may appeal this determination to the National Appeals Division (NAD) by filing a written request no later than 30 calendar days after you receive this notice according to the NAD appeal procedures found at 7 CFR Part 11. If you appeal to NAD, you have the right to a hearing that you or your representative may attend. Once a hearing with NAD begins, you waive any rights you might have to reconsideration, appeal to FSA, and mediation. To appeal, you must write to NAD at the following address, or on the NAD website at **www.nad.usda.gov**, explain why you believe this determination is erroneous, and provide a copy to FSA. You must personally sign your written appeal to NAD and include a copy of this letter. (*Insert NAD address.*)

If you do not timely exercise one of the preceding options, this shall be the final administrative determination with respect to this matter according to the regulations at 7 CFR Part 780 and 7 CFR Part 11.”

**G Mandatory Language When Decision-Maker is an Acting STC or COC**

For decisions rendered by an acting STC or COC, add the following language immediately following the appeal rights portion of the determination letter:

\*--“The provisions of regulations at 7 CFR §780.3 and §7.34 authorize me to make this--\* decision as the acting (*State/county*) committee. I have attached to this determination a copy of that designation.”

Include as an attachment to the adverse decision letter a copy of the written designation.

**\*--15 Decisions That Are Not Appealable****A Nonappealable Adverse Determinations**

Paragraph 11 describes some decisions based on issues that are not appealable. Participants **cannot** appeal the rules, regulations, or generally applicable provisions themselves. Letters notifying participants that a decision is not appealable **must** clearly explain the reasons why--\* the decision is not appealable. Avoid using general and vague statements that do not sufficiently demonstrate the reasons that the decision is not appealable.

**33 STC Appeals (Continued)****D Federal Rules of Evidence**

**[7 CFR 780.10(d)] The Federal Rules of Evidence do not apply in appeals to a State committee. Notwithstanding, a State committee may confine presentations of evidence to material facts and exclude evidence or questions as irrelevant, unduly repetitious, or otherwise inappropriate.**

**E Deliberations**

**[7 CFR 780.10(f)] Deliberations shall be in confidence except to the extent that a State committee may request the assistance of FSA employees during deliberations.**

Participants shall **not** be present during and verbatim transcripts shall **not** be made of deliberations.

**F Appeal Decision**

**[7 CFR 780.10(e)] The official record of a State committee decision will be the decision letter that is issued following disposition of the appeal.**

Follow subparagraph 13 C for adverse STC appeal decisions.

## 34 Appeals of Adverse Decisions Rendered by Acting STC or COC

### A Authority

**\*--[7 CFR 7.34] Nothing in this part shall preclude the Secretary, the Administrator, or--\* the Deputy Administrator from administering any or all programs or exercising other functions delegated to the community committee, county committee, State committee, or any employee of such committees. In exercising this authority, the Secretary, the Administrator, or the Deputy Administrator may designate for such period of time as deemed necessary a person or persons of their choice to be in charge [with] full authority to carry on the programs or other functions without regard to the normal duties of such committees or employees.**

**[7 CFR 780.3(b)] Nothing contained in this part shall preclude the Secretary, or the Administrator of FSA, Executive Vice President of CCC, the Chief of NRCS, if applicable, or a designee from determining at any time any question arising under the programs within their respective authority or from reversing or modifying any decision made by a subordinate employee of FSA or its county and State committees, or CCC.**

### B STC and COC Determinations

FSA may occasionally appoint an acting STC or, in rare instances, an acting COC. Acting STC's and COC's have the full authority of appointed STC's and elected COC's. Program determinations issued by acting STC's and COC's have the same force and effect as determinations that permanent STC's and COC's render.

Generally, when a program participant requests reconsideration or appeals, if the deciding official is an acting STC, FSA provides the appellant an option to wait for appointment of a permanent STC to proceed with the reconsideration request or appeal. FSA may provide the same option when there is an acting COC that would be the decision-maker.

If the decision-maker for a reconsideration or appeal is an acting STC or COC, the decision-maker **must** add the mandatory language in subparagraph 14 G to the determination letter. The determination letter must include, as an attachment, a copy of the written designation of the acting STC or COC.

If FSA decides to offer an appellant the option to wait for an appointed STC or elected COC, the acknowledgement letter in Exhibit 13 or 26, as applicable, must notify the appellant. The acknowledgement must include, as an attachment, a document for the appellant to return to FSA for recording the choice (modify Exhibit 14 for local use).

## 35-40 Reserved