

National Bulletin 180-4-3, Attachment 2: Examples

Example 1: In HELC/WC, the same would also be true. NRCS would make a preliminary technical determination. NRCS provides an initial period of reconsideration prior to a determination becoming final. This period of reconsideration gives NRCS the ability to maintain control of the determination with the ability to resolve the dispute at the local level within the agency prior to the decision or determination, becoming final and being used by another jurisdiction (in this case FSA).

The NRCS technical determination is not adverse to the appellant at this time, because no other action has been taken except to notify FSA that there is a potential or actual violation. FSA would then use the NRCS final technical determination and make a program decision to deny applicable USDA benefits, which is the actual decision adverse to the program participant. The decision made by FSA, using the NRCS decision to withhold the USDA benefits, is the "trigger" for the informal appeals process.

Again, the required informal review provides an additional period to both NRCS and FSA to resolve the adverse situation prior to NAD gaining jurisdiction of the adverse decision.

Example 2: An NRCS employee issues a final technical determination for a CW+YR wetland violation. The FSA then denies USDA benefits for the applicable USDA programs based on the NRCS technical determination. Appeal of the final technical determination must be heard before the applicable FSA COC prior to NAD having jurisdiction over the appeal.

Example 3: An NRCS employee issues a final determination to an applicant in the Wetlands Reserve Program (WRP) denying participation in the program based on the applicant having ineligible land. Appeal rights must be provided to all of the following: Reconsideration through ADR; Informal appeal to the FSA COC; or Direct appeal to NAD.