

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

<b>Program Appeals, Mediation, and Litigation 1-APP (Revision 2)</b>	<b>Amendment 13</b>
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Approved by: Administrator



**Amendment Transmittal**

**A Reason for Amendment**

Paragraph 14 has been amended to clarify that mediation remains an option after an adverse decision.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	1-3, 1-4 2-11 through 2-14	



2 FSA, Office of the Administrator, OBPI, ALS Organization

A ALS Organizational Structure and Duties

ALS is part of the Office of the Administrator. ALS:

- monitors and coordinates administrative appeal activities
- develops administrative appeal policy
- prepares National directives
- assists OGC and the Department of Justice with administrative appeals and litigation involving FSA and CCC

**Note:** ALS is FSA's point of contact for obtaining concurrence on behalf of the Executive Vice President, CCC, or Administrator, on any compromise or offer of settlement stemming from or potentially about administrative appeal or litigation.

- conducts hearings, as necessary, about suspension and debarment appeals
- assembles and prepares for signature by the Administrator, requests for NAD Director review or reconsideration
- provides guidance to FSA offices and officials on mediation cases and on appeals and litigation matters
- reviews and processes FOIA and Privacy Act appeals
- reviews and processes AFIDA appeals.

2 FSA, Office of the Administrator, OBPI, ALS Organization (Continued)

**B ALS Addresses**

The addresses for ALS are as follows.

<b>For FedEx, UPS, or other Approved Overnight Mail Delivery</b>	<b>For USPS Delivery</b>
USDA, FSA, ALS SOUTH BUILDING ROOM 5971-S 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-5971  Telephone: 202-690-3297.	USDA, FSA, ALS STOP 0570 APPEALS AND LITIGATION STAFF 1400 INDEPENDENCE AVE SW WASHINGTON DC 20250-0570

**Notes:** Use FedEx, UPS, or other approved overnight service when time is of the essence or when sending any electronic disks, photographs, or other sensitive or damageable material.

USPS regular or priority mail shall **not** be used to send case files or packages to ALS, or when time is a factor. USPS regular mail should be used **only** for routine letter correspondence.

**C ALS Contact Information**

ALS contacts are as follows.

<b>Appeals and Litigation Staff</b> Main Telephone Number: 202-690-3297 FAX Number: 202-690-3003.		
<b>Name</b>	<b>Title</b>	<b>Phone Number</b>
John W. Welch	Director	202-690-3297
Charles Berge	*--Assistant to the Director	202-720-7757--*
Gwen Sellman	Staff Assistant	202-690-3297
Shelley Davis	Management Analyst	202-690-8034
Robin Wieland	Management Analyst	202-690-2814

13 Appeal and Review Options in FSA’s Informal Appeals Process (Continued)

**B Options to Give Participants in Reconsideration Decisions**

When notifying a participant of an adverse reconsideration, use the applicable language in paragraph 14 to provide the right to appeal and request decision according to the following table.

<b>IF the reconsideration decision is made by...</b>	<b>THEN provide the right to...</b>
COC	appeal to STC, mediation, and appeal to NAD.
*--State Office employee (not FLO, FLM, SFLO, or SED)	
FLO	
FLM	
SED	
<b>Exception:</b> SED relief determinations have <b>no</b> review or appeal rights.	
SFLO--*	
STC	mediation and appeal to NAD.

**C Options to Give Participants in Appeal Decisions**

When notifying a participant of an adverse appeal decision, use the applicable language in paragraph 14 to provide the right to appeal and request mediation according to the following table.

<b>IF adverse appeal decision is made by...</b>	<b>THEN provide the right to...</b>
COC	appeal to STC, mediation, and appeal to NAD.
STC	mediation and appeal to NAD.

**Exceptions:** Do **not** provide the right to mediation if FSA and the participant have previously mediated the issue or otherwise completed mediation.

For NRCS Title XII determinations, follow Part 4.

## 14 Mandatory Language to Insert in Adverse Decision Letters

### A Language Requirements

The applicable **mandatory** language in subparagraphs B through F shall be used, as applicable pursuant to paragraph 13, in **all** adverse decision letters.

**Exceptions:** For farm loan servicing actions, the forms and exhibits provided in pertinent FLP directives or regulations **must** be used when notifying participants of adverse decisions.

For NRCS determinations, follow Part 4.

Exhibit 8 provides examples of some decisions made by various FSA officials or committees.

### B Appeal to COC

The following language shall be used, as applicable pursuant to paragraph 13:

“You may appeal this determination to the County Committee by filing a written request no later than 30 calendar days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you appeal to the County Committee, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you appeal this determination to the County Committee, you may later appeal an adverse determination of the County Committee to the FSA State \*-Committee or the National Appeals Division or request mediation. To appeal, write to-\* the County Committee at the following address and explain why you believe this determination is erroneous. (*Insert COC address.*)”

**14 Mandatory Language to Insert in Adverse Decision Letters (Continued)****C Reconsideration**

The following language shall be used, as applicable pursuant to paragraph 13:

“You may request that the *(insert COC, FLO, FLM, SED, SFLO, or STC, as applicable)* reconsider this determination by filing a written request no later than 30 calendar days after you receive this notice according to FSA’s appeal procedures found at 7 CFR Part 780. If you request reconsideration, you have the right to an informal hearing with *(insert COC, FLO, FLM, SED, SFLO, or STC, as applicable)* that you or your representative may attend personally or by telephone. If you choose to seek reconsideration, you may later appeal the determination to *(insert STC or NAD, as \*--applicable)*, or request mediation. To request reconsideration, write to *(insert COC, \*--\* FLO, FLM, SED, SFLO, or STC, as applicable)* at the following address and explain why you believe this determination is erroneous. *(Insert applicable address.)*”

**D Appeal to STC**

The following language shall be used, as applicable pursuant to paragraph 13:

“You may appeal the County Committee’s determination to the State Committee by filing a written request no later than 30 calendar days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you appeal to the State Committee, you have the right to an informal hearing that you or your representative may attend either personally or by telephone. If you choose to appeal to the State Committee, you may later appeal the determination of the State Committee to \*--the National Appeals Division or request mediation (unless mediated previously). If--\* you appeal an initial decision of a County Committee to the State Committee, you waive your right to reconsideration by the County Committee of that decision. To appeal, write to the State Committee at the following address and explain why you believe this determination is wrong. *(Insert STC address.)*”

## 14 Mandatory Language to Insert in Adverse Decision Letters (Continued)

**\*--E Mediation--\***

States **without** a USDA Certified State Mediation Program shall use the following:

“Mediation is available as part of FSA’s informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the timeframe in which you may file an appeal stops. When mediation closes, the clock restarts and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the FSA State Executive Director at the following address. *(Insert SED address.)*” \* \* \*

States **with** a USDA Certified State Mediation Program shall use the following:

“Mediation is available as part of FSA’s informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the timeframe in which you may file an appeal stops. When mediation closes, the clock restarts and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the *(insert State name)* State mediation program at the following address and provide a copy of your request for mediation to FSA. *(Insert mediation program address or other address as agreed on by the State certified mediation program and FSA State Office.)*” \* \* \*