

# Filing a USDA NAD Appeal: How to Challenge an Agency Decision

**This resource is for farmers and nonprofits who:**

- Have received a written “adverse decision” – including contract terminations, funding freezes, eligibility denials, compliance determinations, payment disputes, or other written decisions affecting program benefits;
- From Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), Rural Development (RD), Rural Business-Cooperative Service (RBS), Risk Management Agency (RMA), or other NAD-governed agency\*; and
- Want more information about filing an appeal with the USDA’s National Appeals Division (NAD).

This resource includes sample NAD appeal letters.

*For farms or organizations that have received an adverse decision from the Agriculture Marketing Service (AMS) or the National Institute of Food and Agriculture (NIFA), check out: [Filing a Review Request Letter with AMS or NIFA](#).*

*For farms or organizations that are not ready to file an appeal or have yet to receive a written decision, check out our resource: [Sending an Inquiry Letter](#).*

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*Disclaimer: This resource is for educational purposes only. No attorney-client relationship is formed by the reading of this document or by taking action based on reading it.*

## Why File a NAD Appeal?

Filing an appeal with USDA’s National Appeals Division (NAD) is a formal way to challenge a written adverse decision and request independent administrative review. It gives you the opportunity to present your facts, clarify how the agency applied the rules in your case, and seek reversal or correction of the decision.



Even if USDA does not reverse its decision, filing a NAD appeal is often **necessary to preserve your legal rights.**

In many cases involving specific legal challenges, you must appeal within **30 days** of receiving an “adverse decision” to keep the option of going to court later. If you wait too long, you may lose that opportunity permanently.

**Why?** Before a lawsuit can move forward in federal court, farmers and organizations are usually required to “**exhaust administrative remedies**”—meaning they must go through all available appeal processes within the USDA first. Skipping this step could result in a court dismissing your case, even if your claim is valid and strong.

#### **Additional reasons to file a NAD appeal**

Beyond your own specific case, there are other reasons to file a NAD appeal. First, the outcome can have implications for other future participants. If you have the bandwidth and think the agency has seriously erred, even if you don’t plan to pursue a lawsuit, **winning in NAD can create legal precedents for future appellants.** In addition, it can be helpful to think of NAD as the accountability process for USDA agencies.

**Without using this process, agencies are only left to hold themselves to account.**

#### **Who can file a NAD appeal**

\*USDA’s National Appeals Division (NAD) handles appeals from a number of agencies, including:

- Commodity Credit Corporation (CCC)
- Farm Service Agency (FSA)
- Federal Crop Insurance Corporation (FCIC)
- Natural Resources Conservation Service (NRCS)
- Risk Management Agency (RMA)
- Rural Business-Cooperative Service (RBS)
- Rural Development (RD)
- Rural Housing Service (RHS)
- Rural Utilities Service (RUS)



If you've received a written adverse decision from one of these agencies—such as a termination, eligibility denial, compliance determination, payment reduction, or other decision affecting your program benefits—**filing a NAD appeal may be essential to protect your legal options.**

**What about sub-awards?** NAD has accepted appeals from sub-awardees who have been harmed by an agency decision—such as the decision to terminate the prime award agreement—even if the lead or prime awardee does not appeal. Whether NAD accepts a sub-awardee appeal can depend on program structure and whether USDA treated the sub-awardee as a 'participant' affected by an adverse decision

Yes, this process takes time. There are no guarantees. USDA may respond that the decision was allowed under shifting agency priorities and interpretations or that the communication you received is not a final and/or appealable adverse decision. Still, going through the process can put you in a stronger position moving forward. It **builds a record of harm, demonstrates good faith, and keeps your legal path open.**

**Common USDA programs that this resource addresses include (not exhaustive):**

- Environmental Quality Incentives Program (EQIP)- NRCS
- Conservation Stewardship Program (CSP) - NRCS
- Regional Conservation Partnership Program (RCPP) - NRCS
- Agriculture Conservation Easement Program (ACEP) - NRCS
- Partnerships for Climate Smart Commodities projects (PCSC) - NRCS
- Agricultural Risk Coverage & Price Loss Coverage (ARC & PLC) - FSA
- Farm Loan Program (Direct and Guaranteed Loans) - FSA
- Conservation Reserve Program (CRP) - FSA
- Noninsured Crop Disaster Assistance Program (NAP) - FSA
- Risk Management Education Partnership Grants - RMA
- Rural Energy for America Program (REAP) Grants - RD /RBS
- Value-Added Producer Grants (VAPG) - RD
- Socially Disadvantaged Groups Grants - RD

Special Note: This resource is specific to programs governed by NAD. Other USDA agencies (like NIFA or AMS) have different appeal processes. If you do decide to appeal, it's critical to follow the process for your specific program or agreement and meet required deadlines.



## **Weighing the benefits and drawbacks of filing a NAD appeal**

Filing an appeal can feel daunting—but it also offers important legal and financial opportunities.

Even if USDA denies your appeal, creating a record that you challenged the decision can strengthen any future legal action. Filing now may:

- Improve your chances of having the agency’s decision reversed or corrected—without going to court.
- Demonstrate a good-faith effort to resolve the issue.
- Create a record that USDA may have misapplied statutes, regulations, or program rules.
- Protect your legal right to challenge the decision in federal court later.

There are few legal downsides to filing an appeal—but there are some practical considerations:

- It takes time and energy to draft and submit an appeal.
- The appeal may be rejected as “untimely,” requiring you to refile.
- It could strain relationships—especially if the process becomes contentious.

Filing an appeal doesn’t guarantee success—but it keeps the door open.

## **When to file a NAD appeal**

The 30-day clock starts when you receive an “adverse decision.” But what does that actually mean?

Best case (for appeal purposes): You receive a formal letter—ideally by certified mail—clearly stating that your contract is terminated, your application is denied, you are ineligible, or your payment is reduced. That is an obvious “adverse decision.”

But it does not have to be formal to start the clock.

An adverse decision can include:

- A termination or suspension notice
- A written eligibility denial
- A compliance finding
- A reduction or denial of payment
- A scoring or ranking determination
- A stop work order
- An email stating that funding is frozen
- Any written communication that clearly affects your program benefits

If you receive written notice that USDA has made a decision affecting your contract, eligibility, payment, or participation in a program, you may need to file your appeal within 30 calendar days of receiving that notice – even if the communication does not look like a formal legal decision.

**Why it matters:** Missing the 30-day deadline can permanently eliminate your right to appeal administratively – and may prevent you from going to federal court later. When in doubt, file.

### **A Note on “General Applicability”**

NAD reviews how USDA applied program rules in **your specific case**. NAD generally does not review broad, nationwide policies that apply to everyone (sometimes called matters of “general applicability”). For example:

- Challenging a nationwide USDA policy on DEI or program priorities falls outside NAD’s authority.
- Challenging how USDA applied its interpretation of eligibility criteria to **your application or contract** is typically within NAD’s authority.

The key distinction is this: **NAD can review whether the agency followed the rules in your case. It usually cannot decide whether a broad USDA policy is lawful overall.**

When drafting your appeal, focus on:

- The specific adverse decision you received,
- The rules that apply to your program, and
- How the agency misapplied those rules to you.



When in doubt, file within 30 days and let NAD determine jurisdiction.

## Big Picture: What NAD Is (and Isn't)

### NAD's core question:

Did the agency follow its own rules and apply the law correctly in *your specific case*?

NAD reviews whether:

- The agency followed applicable statutes, regulations, notices, or contract terms
- The agency applied the correct eligibility or compliance criteria
- The agency relied on requirements that do not appear in the governing rules
- Required procedures were skipped, misapplied, or ignored

NAD generally does **not** decide:

- Whether broad USDA policies that apply to everyone are lawful ("matters of general applicability")
- Whether a program is fair, wise, or good policy
- Whether the outcome feels unjust or unfair (unless tied to a rule violation)
- Broader constitutional claims (such as First Amendment or equal protection arguments) or civil rights/discrimination claims (these are outside NAD's authority and may need to be pursued through other channels, even if you also file a NAD appeal).

This framing is important when you draft your appeal.

## How to File: You Do Not Need a Perfect Legal Brief

A NAD appeal is "notice pleading." This means your initial filing only needs to notify NAD that you are appealing a specific adverse decision. It does **not** require extensive legal arguments or a fully developed theory of the case.

The purpose of the initial appeal is simple: preserve your rights and trigger the review process. Your initial filing must:

- Be **filed within 30 calendar days** of receiving the adverse decision (unless a different deadline is stated in the notice).



- Clearly identify the decision you are appealing (include the date and agency).
- Briefly explain why you believe the decision is incorrect.
- Include a **copy of the written communication you are treating as the adverse decision.**
- Signed by the participant (the farmer or an authorized organization representative—**not** an attorney on your behalf)

That's it.

### **You do *not* need to:**

- Cite every legal authority.
- Fully analyze the statutes or regulations.
- Anticipate all USDA defenses.
- Submit every supporting document at the time of filing.
- Have your arguments perfectly organized.

Many experienced advocates caution against spending too much time trying to “perfect” the initial appeal. You will have opportunities later – including before and during the hearing – to refine your arguments, organize evidence, and present your case more fully.

The most important thing is to file on time.

### **Common Pitfalls to Avoid When Filing a NAD Appeal**

- Missing the 30-day deadline
- Waiting for a “more formal” letter before filing
- Framing your appeal as a challenge to a nationwide policy instead of explaining how the rules were *misapplied in your specific case*
- Focusing only on fairness or hardship without explaining what rule was violated
- Waiting to file because you think your arguments aren't “lawyerly” enough

Remember: **Your initial filing only needs to notify NAD that you are appealing and briefly explain why the agency's decision was incorrect.**



## Is a lawyer required to file a NAD appeal?

No. Farmers and organizations can file a NAD appeal without a lawyer. Unlike going to court, the NAD appeal process is specifically designed to allow individuals and organizations to represent themselves. This resource outlines the steps and provides Sample Letters to support farmers and organizations who choose to file a NAD appeal on their own.

An Administrative Judge will be appointed to your case (note: also referred to as a Hearing Officer, but we'll use judge for simplicity). One of the judge's roles is to support you through the process. They will be familiar with and apply the relevant laws. The focus of the

NAD appeal process is to gather and record all the facts and documents supporting your case. But it's still a legal process, and mistakes can affect your rights. If you move forward without legal representation, take care to follow deadlines and instructions closely.

Another option is to designate a non-lawyer to represent your case on your behalf. NAD allows representation by a non-attorney. For example, you could ask your accountant, business advisor, board member—or anyone else who may have expertise and familiarity with your financial and legal interests at stake. The benefit of including someone else is to help ensure you include all necessary documents, tell the facts thoroughly and compellingly, and follow deadlines and instructions closely.

### Reach out for questions and support

If you feel more comfortable having legal representation, contact one of us, and we can connect you with an attorney.

*Nationwide:* **Farm Commons:** [info@farmcommons.org](mailto:info@farmcommons.org)

**Farmers' Legal Action Group (FLAG):** [lawyers@flaginc.org](mailto:lawyers@flaginc.org)

**Lawyers for Good Government (L4GG):** [support@l4gg.org](mailto:support@l4gg.org)

*Northeast:* **Legal Food Hub, Conservation Law Foundation:** [legalfoodhub@clf.org](mailto:legalfoodhub@clf.org)

## Steps for Filing a NAD Appeal

**When?** You must act quickly. Farmers and organizations generally have **30 calendar days** from the date they receive a written “adverse decision” (by email or letter) to file a NAD appeal. An adverse decision may include a contract termination, funding freeze, eligibility denial, compliance determination, payment reduction, or other written decision affecting program benefits.

**How?** The [NAD Appeals website](#) provides instructions and helpful resources. You can also watch this [9-minute USDA video](#) on how to file a NAD appeal.

Below is a breakdown of the basic steps:

### **Step 1: Confirm that NAD procedures apply.**

Check the “appeals” or “dispute resolution” section of your agreement terms. If it’s unclear, verify whether your program or funding is administered by a NAD-governed agency (e.g., NRCS, FSA\*, RMA, RBS, RD).

*\* Exception: If your contract is with FSA and the issue is not related to farm credit, NAD regulations generally require you to first request an informal review through your FSA field office or County Committee before filing a NAD appeal. **You must send the informal review letter within 30 days of receiving the adverse decision.***

- Use our *Sample FSA Informal Review Letter* to get started.
- If their response is adverse or you receive no response, you may then proceed to file a NAD appeal.

### **Step 2: Gather supporting documents.**

Collect any records that help demonstrate your eligibility, compliance, or why the agency’s decision was incorrect—and, if relevant, the practical or financial impact. These may include:

- Your USDA contract, grant award letter, or application
- The adverse decision notice (email or letter)
- Your submitted application and supporting materials
- Relevant program rules, notices, or guidance (if available)
- Email or communication records with USDA
- Receipts, invoices, or other documentation showing financial impact (if relevant)

### **Step 3: Draft your appeal letter.**

Write a letter explaining:

- What decision you are appealing (identify the decision + date + agency),
- Why you believe it is incorrect under the applicable rules, and
- How the decision affects you.

Use our *Sample NAD Appeal Letters* and see the next section on “Framing Appeal Arguments” to help craft a strong appeal. But remember, your letter does not need to include extensive legal arguments at this point.

### **Step 4: Complete the NAD Appeal Request Form.**

Download and fill out the [NAD Appeal Request Form](#).

### **Step 5: SIGN and Submit your appeal.**

You must sign your appeal letter. Note: if you have an attorney representing you, they cannot sign it on your behalf. You must sign it yourself.

When sending your NAD appeal, you have two options:

1. Mail your letter and form to the regional NAD office closest to you.  
(Use the mailing address provided in our sample letter.) OR
2. File online via the [NAD eFile system](#):
  - Follow the prompts to set up a NAD eFile account
  - Upload your appeal letter, supporting documents, and form
  - Follow the prompts to submit your appeal

*Tip:* Prepare all documents before starting the e-filing process.

## **Step 6: Prepare for a hearing (if granted).**

If your appeal is accepted and proceeds to a hearing, see our companion resource: [\*\*\*Preparing for a USDA NAD Hearing\*\*\*](#)

That guide explains:

- What happens at a hearing
- How to organize your case
- The difference between merits and equitable relief
- What happens after the judge issues a decision

### **Optional: Mediation During the NAD Appeal Process**

When filing a NAD appeal, you may request mediation as part of the process. Mediation is a voluntary and confidential process in which a neutral third party helps both sides explore whether the dispute can be resolved without a formal evidentiary hearing.

Mediation can be helpful when both sides are open to compromise. Requesting mediation does not replace the need to file a timely appeal. You must still submit your NAD appeal within 30 calendar days of receiving the adverse decision. If you want mediation, include a sentence in your appeal letter requesting it: “We respectfully request mediation under the NAD process in an effort to resolve this matter informally.”

If mediation does not resolve the dispute, the case will proceed to a hearing.

## NAD appeal process: what to expect in a nutshell

*Note: this is a broad stroke overview. For more details, be sure to review our companion guide: [Preparing for a USDA NAD Hearing](#)*

While every case differs, here is a snapshot of what to expect.

**NAD acknowledges your appeal.** Within a few days to a week, NAD will send you a confirmation letter and assign a judge to your case. The USDA agency that issued the decision (e.g., NRCS, RBS, etc.) will also be notified.

**USDA submits its agency record.** Typically, within about 10 days of NAD accepting the appeal, the USDA agency must submit its official agency record—a packet of documents explaining the decision and supporting evidence.

**Pre-hearing conference call.** Usually, within 2–3 weeks, the judge will schedule a conference call to explain the process and discuss how the appeal will move forward.

- You and the USDA agency will decide whether to have a live hearing (with witness testimony) or resolve the appeal “on the record” (using only written documents).
- You can also request additional documents from the agency at this stage to support your case.

**Option 1: Hearing is held.** A hearing is typically scheduled within 45 days of NAD being assigned to a judge. Hearings are usually held by phone or video conference, though in-person hearings may be available. At the hearing, both sides may present testimony, submit additional evidence, and respond to questions from the judge.

**Option 2: Decision is made “on the record”:** If you do not request a hearing – or if both parties agree that a hearing is unnecessary – the judge may issue a decision based solely on the written record. While this may result in a faster resolution, it does not allow for live testimony or clarification, so it is generally not recommended.

**Decision issued:** The judge will issue a written determination typically within 30 days of the record closing. If the judge rules in your favor, the adverse decision will be reversed or remanded, and **the agency is required to implement the determination** (for example, taking action by reconsidering under the correct standard, restoring eligibility, or correcting the record).

### **What if the judge rules against you?**

If NAD upholds the agency's decision, you have two options:

- File a request for Direct Review, or
- File a lawsuit in federal court. At this point, you've exhausted your administrative remedies, and a federal court is allowed to hear your case.

### **What happens while the NAD Appeal is pending?**

In many cases, USDA agencies—including NRCS, RMA, and FSA—pause further adverse action on the same issue while a NAD appeal is pending. In other words, the NAD appeal process generally preserves the “status quo.” This is often handled through internal practice rather than a formal NAD-issued stay.

While USDA typically does not finalize a termination or take further enforcement action during an NAD appeal, it can voluntarily lift a freeze, resume payments, or reinstate an agreement at any time. If USDA decides to resume payments or reinstate agreements more broadly—such as for all EQIP contracts—those disbursements can still go forward, including for producers who have appeals pending.

If USDA reinstates your agreement while your appeal is still active, you may receive payment. Most likely, the USDA will ask you to withdraw your appeal once the issue appears to be resolved.

If this happens, we strongly recommend requesting written confirmation of your contract status and funding reinstatement before withdrawing your appeal, to ensure all issues have been fully addressed. Withdrawing too early could prevent you from challenging the decision later if USDA changes course. If you're unsure, it's best to speak with an attorney before making that decision.



## **Framing Appeal Arguments: Balancing Benefits and Risks**

Every farmer and organization brings a unique set of facts to a NAD appeal. Your contract or grant agreement, application materials, and USDA communications will shape how you present your case.

Although your initial filing only needs to notify NAD that you are appealing the adverse decision, some farmers and organizations prefer to outline the legal basis for their appeal. While not required, doing so can clarify your position and help preserve key arguments early in the process.

At its core, a NAD appeal asks:

**Did the agency follow the governing statutes, regulations, program notices, and contract terms in your specific case?**

Below are common legal arguments that may apply.

### **1. The Agency Applied the Wrong Rule or Standard**

This may occur when:

- The agency relied on eligibility criteria not found in the governing statute, regulation, or program notice.
- The agency applied internal guidance that conflicts with published rules.
- The agency interpreted a requirement more narrowly or more broadly than the regulation allows.
- The agency imposed additional conditions not found in your contract or the governing authority.

This issue often arises in disputes over eligibility, scoring, ownership requirements, compliance findings, DEI-related interpretations, or participation criteria.

**When framing this argument, it's important to recognize that Congressional mandates matter.** Congress sets binding priorities in federal law. For example, many USDA programs are statutorily directed to:

- Support historically underserved or socially disadvantaged farmers and ranchers,



- Expand equitable access to USDA programs,
- Promote conservation, climate-smart agriculture, renewable energy, and environmental stewardship.

USDA cannot disregard or override statutory mandates simply by changing internal policies or shifting administrative interpretations.

If the agency applies a decision in your specific situation that conflicts with clear statutory directives – or reflects criteria inconsistent with the governing law – that may be a valid basis for a NAD appeal.

The focus is not on whether a policy is wise or fair. The question is whether the rule applied in your case is authorized by law.

### **Understanding Legal Authority: Not All Rules Are Equal**

When evaluating whether USDA applied the correct rule, it helps to understand the hierarchy of legal authority. In general:

**1. Federal Statute (Passed by Congress, e.g., U.S. Code / Farm Bill provisions, IRA, IIJA, etc.).** This is the highest level of authority. Statutes establish program mandates, eligibility categories, funding priorities, and required protections (such as support for historically underserved producers or conservation objectives).

**2. Federal Regulations (Published in the Code of Federal Regulations (CFR)).** Agencies issue regulations to implement statutes. Regulations must be consistent with the statute.

**3. Program Notices, Handbooks, and Agency Guidance.** These interpret and implement regulations. They must be consistent with both the statute and the regulations.

**4. Internal Memos or Informal Guidance.** These carry the least authority and **cannot** override statutes, regulations, or formal program rules.

Bottomline: If an adverse decision is based on internal guidance or an interpretation that conflicts with statute or regulation, that may be grounds for appeal. The agency cannot change or disregard statutory mandates simply by issuing new internal policies.

## **2. The Agency Misapplied the Correct Rule to Your Facts**

Sometimes the rule itself is correct, but the agency applied it incorrectly to your situation. Examples may include:

- Miscalculating payment amounts,
- Misinterpreting documentation,
- Incorrectly determining noncompliance,
- Concluding you failed to meet eligibility requirements despite the evidence,
- Misapplying ranking or scoring criteria.

Here, your argument focuses on how your specific facts satisfy the governing standard.

## **3. The Agency Failed to Follow Required Procedures**

The agency must follow procedural requirements set out in statute, regulation, and its own program rules. Procedural violations may include:

- Failing to provide the required notification,
- Denying an opportunity to cure deficiencies,
- Skipping required review steps,
- Failing to consider relevant evidence,
- Changing a determination without explanation.

Procedural errors can be as significant as substantive errors.

## **4. The Decision Was Arbitrary or Unsupported by the Record**

Even when applying the correct rule, the agency must base its decision on substantial evidence. A decision may be flawed if:

- It lacks factual support,
- It contradicts documented evidence,
- It fails to explain its reasoning,
- It relies on assumptions rather than evidence in the record.

NAD evaluates whether the agency's determination is supported by the administrative record.



## **Framing Matters: Focus on How the Decision Applies to You**

NAD generally reviews how the agency applied program rules in your case. It does not typically decide whether nationwide policies or broad executive branch priorities are lawful. For example:

- A general challenge to USDA's overall DEI or climate policy may fall outside NAD's authority.
- A challenge to how the agency applied an eligibility interpretation to your application or contract is typically within NAD's authority.

When drafting your appeal, focus on:

- The specific adverse decision you received,
- The governing rules for your program,
- How those rules were misapplied in your situation.

## **A Note on Equitable Relief**

Even if the agency correctly applied the rules, a participant may still seek equitable relief under 7 U.S.C. § 7996. Equitable relief generally applies when:

- You are determined to be not in compliance or ineligible under a covered program, and
- You relied in good faith on the agency's advice or actions, or made a good-faith effort to comply.

If you feel equitable relief may apply in your case, it's best to explicitly request it in your appeal letter. Mentioning it early can help preserve the issue. While it's not required, you may also briefly reference:

- Your good-faith efforts,
- Any reliance on agency approvals or guidance,
- Financial consequences resulting from the decision.

However, you do not need to provide full arguments for equitable relief at this time. If your appeal proceeds to a hearing, see our companion guide: [\*\*\*Preparing for a USDA NAD Hearing\*\*\*](#) for a detailed explanation of how and when equitable relief must be formally requested.



## **A Final Note on Level of Detail**

You are not required to fully develop all legal arguments at the time of filing. Many appellants submit a brief explanation and refine their arguments during hearing preparation.

However, if outlining the legal issues strengthens your confidence in filing – or helps you think through your case – you may include that information.

The most important step is to file on time.

## **Using the Sample Letters**

You'll find several sample letter options below, ranging from a detailed legal framing (Option A) to a short-form "notice pleading" version (Option B), as well as a farmer-focused sample (Option C), and an FSA informal review request.

Use the Sample Letters as a framework to present your facts and tailor arguments to your situation. When in doubt, keep it simple and specific to your situation.

Remember: **notice pleading is all that is legally required to file a NAD appeal.** Choose the version that fits your comfort level, time constraints, and the complexity of your situation. You can always refine and expand your arguments later in the process, especially if the case proceeds to a hearing.

## **Reach out for questions and support**

If you feel more comfortable having legal representation, contact one of us, and we can connect you with an attorney.

*Nationwide:* **Farm Commons:** [info@farmcommons.org](mailto:info@farmcommons.org)

**Farmers' Legal Action Group (FLAG):** [lawyers@flaginc.org](mailto:lawyers@flaginc.org)

**Lawyers for Good Government (L4GG):** [support@l4gg.org](mailto:support@l4gg.org)

*Northeast:* **Legal Food Hub, Conservation Law Foundation:** [legalfoodhub@clf.org](mailto:legalfoodhub@clf.org)



## Sample NAD Appeal Letters

### Important reminders:

- Include with every appeal: (1) **appeal letter**, (2) **NAD appeal request form**, (3) **copy of the adverse decision**, (4) **signature of participant** (farmer or authorized representative for organization).
- Add a heading at the top of your letter
- Check the [NAD website](#) for the most current regional office assignments.

### Heading

[Organization Name]

[Organization Address]

[City, State, ZIP]

[Email Address]

[Phone Number]

#### **[Choose applicable region]:**

National Appeals Division

#### **Eastern Regional Office (ERO)**

Post Office Box 1508

Cordova, TN 38088

*(AL, CT, DE, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and Puerto Rico)*

National Appeals Division

#### **Western Regional Office (WRO)**

13922 Denver West Parkway

Suite 100-NAD

Lakewood, CO 80401-3102

*(AK, AZ, AR, CA, CO, HI, ID, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY, Guam, American Samoa, Northern Mariana Islands, U.S. Virgin Islands, Eastern Caroline Islands)*

## OPTION A: Detailed Appeal Letter

**[Date]**

Subject: Appeal of Adverse Decision – **[Grant/Contract/Program Name & Number]**

Dear National Appeals Division:

We respectfully appeal the adverse decision of **[agency name, e.g., NRCS, FSA]** dated **[Date]** to **[terminate / freeze / deny / modify]** our **[grant/contract/program participation]**, identified as **[Grant/Contract/Program Name & Number]**.

We request a hearing under the National Appeals Division procedures and challenge this adverse decision on the following grounds:

### **1. The Agency Misinterpreted and Misapplied Governing Law in Our Case**

Our organization was awarded funding to **[brief description of project purpose – e.g., increase market access for small producers, expand conservation practices, support historically underserved farmers, implement renewable energy projects]**. These activities align with the governing statute, regulation, and published program materials for **[program name]**, including **[cite statute if known, e.g., Agriculture Improvement Act of 2018, IRA, IIA, or program notice/RFA]**.

In issuing the adverse decision dated **[Date]**, the agency relied on **[describe interpretation, internal guidance, or stated reason]**. That interpretation, as applied to our agreement and application, is inconsistent with the governing statute, regulation, and/or contract terms.

Specifically:

- The statute and program materials authorize and prioritize **[describe relevant authority or priority, e.g., support historically underserved farmers]**.
- Our executed agreement and approved application reflect those requirements.
- The adverse decision applies a different or additional standard that does not appear in the governing authority or our agreement.

While USDA may adopt prospective policy changes, it may not reinterpret or apply program requirements in a manner that conflicts with the governing statute, regulation, or executed agreement in our specific case.



This appeal challenges the agency's interpretation and application of program requirements as applied to our agreement, application, and performance.

## **2. The Agency's Decision Is Not Supported by the Record**

Even assuming the agency applied the correct rule, the adverse decision misapplies that rule to the documented facts of our case.

For example:

- [Brief factual error: miscalculated payment, misinterpreted documentation, incorrect compliance determination, improper scoring, etc.]
- [Explain how your documentation satisfies the requirement.]

The administrative record demonstrates that we met the applicable program requirements as written. The adverse decision either overlooks relevant evidence or applies the governing standard incorrectly to our documented facts.

## **3. The Decision Lacks Adequate Explanation**

The adverse decision does not adequately explain:

- [Briefly explain what is contradictory or lacking in the explanation, e.g.,
- Why previously approved activities are now considered noncompliant;
- How our application or performance fails to meet program standards; or
- Why termination (rather than modification or corrective action) was selected].

A complete termination, particularly after execution of a signed agreement and documented reliance, is disproportionate and unsupported by the record.

## **4. Statutory Priorities as Applied to Our Agreement [If Applicable]**

Congress has directed USDA to prioritize, among other things:

- Historically underserved and socially disadvantaged farmers and ranchers;
- Climate-smart, conservation, and renewable energy initiatives; and
- Equitable access to USDA programs.

Our project was approved and funded in alignment with these statutory mandates.

The adverse decision, as applied to our agreement, disregards those governing directives and substitutes an interpretation that does not appear in the statute, regulation, or published program materials.



While USDA may adjust internal priorities prospectively, it may not administer our executed agreement in a manner inconsistent with Congressional directives.

## 5. Request for Equitable Relief

If USDA determines that we are ineligible or not in compliance, we request consideration of equitable relief under 7 U.S.C. § 7996.

Our organization:

- Relied in good faith on USDA’s approval and executed agreement;
- Structured staffing, budgeting, and operations around this funding; and
- Has incurred financial and operational consequences as a result of the agency’s action.

If strict application of revised interpretations, timing constraints, or funding limitations would result in ineligibility despite our good-faith efforts, we respectfully request equitable relief to prevent penalization under those circumstances.

## Requested Relief

We respectfully request:

- A hearing under NAD procedures,
- Reversal or vacatur of the adverse decision,
- Reinstatement or reconsideration consistent with governing law, and
- Any equitable relief deemed appropriate under 7 U.S.C. § 7996.

Enclosed are supporting materials, including the adverse decision and [our agreement, application, correspondence, and documentation] relevant to this appeal.

This appeal may raise broader legal concerns beyond NAD’s jurisdiction, which we expressly reserve.

Sincerely,

[Signature – must be signed by participant, not attorney]

[Name]

[Title]

[Organization]



## OPTION B: Short-Form “Notice Pleading” Letter

This version is intentionally simple. It provides the basic information required to notify NAD that you are appealing an adverse decision.

[Date]

Subject: Notice of Appeal – [Grant/Contract Name & Number / Program Name / Application]

Dear National Appeals Division:

Pursuant to NAD regulations, we hereby appeal the adverse decision of [Agency Name, e.g., NRCS, FSA] dated [Date] concerning [brief description: termination / freeze / eligibility denial / payment dispute] related to [Grant/Contract Name & Number or Program/Application Name].

We believe the agency misapplied the [governing statutes, regulations, program requirements, and/or contract terms] to the specific facts of our case. This appeal concerns how the agency applied program requirements to our specific [agreement, application, or participation].

In brief: [In one or two sentences, explain how USDA misapplied the applicable program rule or contract terms in your specific situation. Example: “USDA concluded we did not meet the eligibility requirement X. However, our application and supporting documentation demonstrate that we satisfied that requirement under the published program criteria.”]

We respectfully request a hearing.

If applicable, we also request consideration of equitable relief under 7 U.S.C. § 7996 based on our good-faith reliance on USDA’s approval and our efforts to comply with program requirements.

Enclosed is a copy of the adverse decision.

Sincerely,

[Signature – participant must sign (not attorney)]

[Name]

[Title]

[Organization]



## **OPTION C: Farmer-Focused Sample Letter (EQIP / CSP / FSA Contract)**

[Date]

Subject: Notice of Appeal – [EQIP/CSP/Program Name] Contract No. [Contract Number]

Dear National Appeals Division:

I respectfully appeal the adverse decision of [NRCS/FSA] dated [Date] concerning my [EQIP/CSP/etc. contract, Contract No. [Number] OR application [Number].

The written notice I received from [name/title/office] states that [brief description: payments are frozen / contract terminated / compliance determination issued / ineligibility determination].

I believe the agency misapplied the governing [program requirements and /or contract terms] to my specific situation.

Specifically:

- [Provide brief explanation of agency error or oversight, e.g.,
- I met all the criteria specified in the application and governing regulations
- My contract required me to [brief description of obligations].
- I have [completed / begun implementing / remained in compliance with] those obligations as required.
- The decision to [freeze/terminate/deny] payments applies a standard that does not appear in my contract or the governing program rules.

This appeal concerns how the agency applied program requirements to my contract and performance.

If the agency determines that I am not in compliance, I also request consideration of equitable relief. [Briefly describe how you incurred losses from relying on the agency's assurances, e.g.,: I relied in good faith on [NRCS's / FSA's] approval of my contract and have incurred costs to implement required conservation practices. A payment freeze places me at risk of financial hardship and potential non-performance through no fault of my own.]



I respectfully request:

- A hearing
- Reversal of the adverse decision;
- Resumption of contract payments; and
- Any equitable relief deemed appropriate.

Enclosed is a copy of the adverse decision and relevant documentation.

Sincerely,

[Signature – must be signed by farmer]

[Farmer Name]

[Address]

[Phone / Email]



## Sample FSA Informal Review Request

[Farmer's Name]

[Address]

[City, State, Zip]

[Email Address]

[Phone Number]

[Date]

U.S. Department of Agriculture

Farm Service Agency

[FSA County Office Name]

[Office Address]

Subject: Request for Informal Review – [Program Name] Contract No. [Number]

Dear [County Executive Director / FSA County Committee],

I respectfully request an informal review of the adverse decision dated [Date] concerning my [Program Name] contract, Contract No. [Number].

The written notice I received from [name/title] states that [brief description: payments are frozen / compliance determination issued / benefits denied].

I believe the decision misapplies the governing [program requirements and/or contract terms] to my specific situation.

Specifically:

- My contract requires [brief description of obligation].  
I have [completed / begun implementing / complied with] those requirements.
- The decision appears to apply a standard or interpretation that is not reflected in the governing program rules or my executed agreement.

I respectfully request that FSA review this determination and reconsider the decision in light of the governing requirements and the documentation submitted.



If the adverse determination of [e.g. payment freeze] remains in effect, I am concerned about my ability to continue implementation without incurring unreimbursed costs.

Please confirm receipt of this request. I would appreciate a written response within 30 days so that I may determine next steps, including whether to pursue a formal appeal with the National Appeals Division.

Thank you for your time and consideration.

Sincerely,

[Signature – Farmer must sign]

[Farmer Name]