

FACT SHEET 14

APPEAL OF FINAL DETERMINATIONS

Reclamation Reform Act of 1982 (RRA)

This fact sheet explains the RRA appeals process provided by the Acreage Limitation Rules and Regulations (43 CFR¹ part 426; Regulations), specifically 43 CFR 426.24. The appeals process allows parties that are directly affected by a final determination issued by a Bureau of Reclamation Regional Director to appeal the final determination to Reclamation's Commissioner. Additionally, a Commissioner's final determination (resulting from the appeal of the Regional Director's final determination) can be appealed to the Office of Hearings and Appeals.

What is an RRA final determination?

An RRA final determination is any determination that is required or authorized by the acreage limitation provisions of Federal reclamation law, including the RRA, and the associated Regulations, and identified as "final." Final RRA determinations include a specific notation within the determination itself identifying the determination as "final" so districts and landholders are able to distinguish final determinations from those that are not.

Who makes RRA final determinations?

Final determinations are usually issued by Reclamation's regional directors. Sometimes a regional director may delegate this authority to other regional representatives.

Who receives RRA final determinations?

Final determinations are transmitted to districts and/or landholders, as appropriate, whose rights and interests are **directly** affected.

What RRA final determinations can be appealed?

Any RRA determination required or authorized by the Regulations that is identified as "final" can be appealed.

Who can appeal an RRA final determination?

Districts and/or landholders who are **directly** affected by an RRA final determination have the right to submit an appeal to the Commissioner, even if they do not receive a notice of the final determination directly from Reclamation. In many cases, Reclamation will notify the district (as the applicable party to the contract with Reclamation) of a final determination, and the district will notify the landholder(s) involved. Even though individual landholders have the right

¹ Code of Federal Regulations

to appeal an RRA final determination, they may find it advantageous to have their district(s) submit an appeal on their behalf. Representatives of directly affected parties (such as attorneys) may also submit an appeal.

What are the deadlines for submitting an appeal of an RRA final determination?

An **appeal** must be submitted **in writing** to the Commissioner **within 30 calendar days** of the date of the regional director's final determination.

- The 30-calendar-day timeframe begins on the date of the letter or other document transmitting the final determination.

Any **supporting documentation** must be submitted to the Commissioner **within 60 calendar days** of the date of the final determination.

- In other words, the deadline for supporting documentation is 30 calendar days following the 30-calendar-day deadline for submitting the written appeal.

Appeals of an RRA final determination cannot be submitted prior to the date of issuance of the final determination in question.

Can appeal submittal deadlines be extended?

The 30-calendar-day deadline for submitting a written appeal **cannot** be extended. However, the Commissioner may grant an extension of the 60-calendar-day deadline for submitting supporting documentation for the appeal.

The appellant must request an extension in writing, in a timely manner (with the written appeal). Requests must include the reason why additional time is needed to submit supporting documentation. The Commissioner may grant the request for extension only if the Commissioner determines the appellant has shown **good cause** for an extension, and the extension will not show any prejudice toward or from Reclamation.

Where should an appeal be submitted?

Appeals and supporting documentation should be submitted, in accordance with the applicable deadlines, to:

Commissioner
Bureau of Reclamation
Policy and Administration
Attention: 84-55000
P.O. Box 25007
Denver CO 80225-0007

Reclamation requests that copies of any appeals and supporting documentation also be sent to the applicable regional office.

Is a regional director’s final determination in effect while the final determination is under appeal?

A regional director’s final determination will take effect the day after the expiration of the 30-calendar-day timeframe during which an affected party may appeal. The only exception is if a **petition for stay** (a written request for a stay of the final determination pending appeal) has been submitted concurrently with a timely appeal. The petition for stay must demonstrate that the harm the affected party would suffer if the appeal decision is not stayed outweighs the interest of the United States in having the final determination take effect while under appeal.

The Commissioner will determine whether to stay a regional director’s final determination within 30 calendar days after receipt. Any final determination or portion of a final determination for which a stay is **not** granted will become effective immediately after the Commissioner denies or partially denies the petition for stay, or fails to act within 30 days after receiving the request.

In **no case**, however, will the accrual of underpayment interest be held in abeyance. The only way to stop the accrual of underpayment interest is to pay the bill in question.

What recourse do appellants have if they disagree with the Commissioner’s decision?

The Commissioner’s decision on an appeal may be appealed to the Department of the Interior’s Office of Hearings and Appeals.

What are the deadlines for submitting an appeal of the Commissioner’s decision?

The Office of Hearings and Appeals must receive the written appeal of the Commissioner’s decision within **30 calendar days** from the date the Commissioner’s decision was mailed. Appeals to the Office of Hearings and Appeals should be sent to:

Director
Office of Hearings and Appeals
Department of the Interior
801 North Quincy Street
Arlington VA 22203

An appeal to the Office of Hearings and Appeals cannot be submitted until **after** an appeal of a regional director’s RRA final determination has been submitted to the Commissioner **and** a decision on that appeal has been issued.

Sources for more information

More information concerning RRA appeals can be found in the following locations. Contact your district or the appropriate Reclamation office for further guidance.

43 CFR 426.24 of the Regulations	
RRA website (including the RRA forms, District Reference Sources, and the text of the RRA and its associated Regulations)	www.usbr.gov/rra