



Natural Resources Conservation Service
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November 19, 2012

KANSAS BULLETIN NO. KS300-13-9

SUBJECT: LTP–Cancellations and Terminations of \$1,000 and Less

Purpose. To reissue Bulletin KS300-11-30 dated February 4, 2011, regarding policy for Program Contracts System (ProTracts) program contract cancellations and terminations less than or equal to \$1,000

Expiration Date. September 30, 2014

A Conservation Program Contract (CPC) may be either cancelled by both parties, or terminated for cause by the Natural Resources Conservation Service (NRCS). In either event, the obligations contained in the CPC are ended through action that annuls the responsibilities of both parties to the contract. There is a slight but significant difference in the terminology used when CPC obligations are ended.

A cancellation is an equitable remedy that allows both parties to end the contractual relationship. A recovery of financial assistance payments may or may not be appropriate, depending upon the circumstances. Liquidated damages will not be assessed for contract cancellations.

A contract is subject to termination as a result of a material breach of the terms and conditions included in the CPC. As such, a contract termination is an adverse action and must be fully documented on Form NRCS-CPA-153, "Agreement Covering Non-Compliance with Provisions of Contract," or formal correspondence as to cause for the termination and the procedure NRCS used to ensure that the participant has been provided an opportunity to remedy the violation, as required by the specific program regulation. Termination for cause will usually result in an assessment of liquidated damages for recovery of costs associated with the administration of the breached contract as well as recovery of financial assistance payments.

NOTE: If all of the land under contract is transferred and the transferee will not assume the obligations of the contract with respect to the transferred acreage, the transferor is in violation and field offices (FOs) shall proceed with termination. Cancellation is NOT an option in these cases.

(more)

DIST: A, F, S, Franklin, C. Nelson, Volkman

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Recovery of costs and liquidated damages less than or equal to \$1,000 shall be waived as being in the public interest. The state conservationist (STC) has delegated the authority to process these contract cancellations and terminations to the assistant state conservationists for field operations (ASTCs-FO).

The ASTCs-FO will notify the participant(s) using the cancellation or termination template (see Attachments 1 and 2). In figuring the referenced amounts, the ASTCs-FO will consider recovery of costs to be all conservation contract financial assistance (FA) payments made. Liquidated damages for terminations will be figured by calculating ten percent of the total amount of FA funds originally obligated to the contract.

FOs shall use Kansas Bulletin KS300-12-52 to send requests to their ASTC-FO. All relevant documentation, including written requests from the participant for cancellations, shall be uploaded with the memo to the appropriate ASTC-FO via electronic contracts (eContracts). FOs are to notify area offices (AOs) of pending requests via email. AOs shall notify the state office of pending requests using the eContracts "notification" button.

NOTE: Wildlife Habitat Incentives Program (WHIP) contracts authorized under the 2002 Farm Bill, do not include any regulatory provisions, nor are any terms or conditions included in the CPC appendix that allow an assessment of liquidated damages. Therefore, the NRCS will not assess liquidated damages for the termination of 2002 Farm Bill WHIP contracts.

Contract terminations and cancellations where FA payments plus liquidated damage are greater than \$1,000 shall be forwarded to the STC through the appropriate channels.

NOTE: Cost recovery waiver provisions are not applicable to overpayments.

Contact: Forward questions, through established channels, to Gaye L. Benfer, ASTC for Programs, at (785) 823-4569, or email gaye.benfer@ks.usda.gov.

(Signed)

ERIC B. BANKS
State Conservationist

Attachments