



Natural Resources Conservation Service
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October 26, 2011

KANSAS BULLETIN NO. KS300-12-2

SUBJECT: LTP–Handling Equitable Relief Requests

Purpose. To provide current guidance on equitable relief (ER) request requirements

Expiration Date. September 30, 2013

All ER requests will be based upon decisions made following guidance in Title 440-Conservation Programs Manual (CPM), Part 509, and Title 7 Code of Federal Regulations (CFR), Part 635.

ER should not be used as a “fix all” for contract issues. ER may be appropriate when a participant is determined to be out of compliance with requirements of a covered Natural Resources Conservation Service (NRCS) conservation program and thereby ineligible for payment or other benefits.

When determining the appropriate type of ER, refer to CPM, Section 509.2, Types of ER, and ensure the conditions outlined in CPM, Sections 509.4A (four-part test) and/or 509.5A (three-part test) have been met and detailed documentation supplied.

Requests for ER **must be in writing and received by the agency no later than 30 calendar days from the date of receipt of the notification of non-compliance.**

Within 14 days of receipt of the request, the field office (FO) will forward the request with the required documentation to the state office (SO).

Processing ER Requests

All ER requests forwarded to the SO must include:

1. A completed Kansas Checklist for ER Requests (Attachment 1) with required documents.
2. Cover memo including all information on the attached example (Attachment 2).
3. Copy of the signature page of the contract.
4. Form NRCS-CPA-6, Conservation Assistance Notes (in chronological order) clearly documenting relevant dates, facts, and events that lead up to the ER request.

(more)

DIST: F, A, S, Collins, Eaves, Franklin, C. Nelson

5. Form FSA-321, Finality Rule and Equitable Relief (Attachment 4). The FO will complete sections 1-14 of this form.
 - Sections 9B and 9C will identify the individual(s) who made and found the error if relief is due to NRCS misaction/misinformation.
 - Section 11 generally will be not applicable (N/A).
 - If no payment has been made for the items which ER is being requested, section 12A will be zero (\$0), and sections 12B and 12C will be the requested amount. If associated payments have been made, enter the applicable amounts.
 - Section 14B will be signed by the assistant state conservationist for field operations (ASTC-FO) as the contracting officer, indicating their review and concurrence of the information.
6. A Corrective Action Plan (applicable if due to NRCS misaction/misinformation) from the ASTC-FO. The following will be addressed in the Corrective Action Plan:
 - A review of action taken.
 - The need for additional office reviews, including full program reviews in the applicable office, if appropriate.
 - Additional employee training to be completed to ensure this situation does not reoccur.
 - Any appropriate employee disciplinary action.
7. See use of eContracts on page 3 of this bulletin.

Processing ER Payments After Approval

The payment, if applicable, will be processed after receiving notification of ER approval. To process approved ER payments outside of Program Contracts System (ProTracts) the following information is needed:

1. Manually prepared Form NRCS-CPA-1245, Practice Approval and Payment Application (Attachment 3). Applicable practices must be certified as being fully completed to the NRCS standards and specifications. This form shall be signed by the participant and appropriate NRCS approving official. The "Payment Application Number" block should be filled in as "ER."
2. Power of Attorney and/or signature authority documents, if applicable.
3. Copy of Form SF-1199A, Direct Deposit Sign-Up form.
4. Any other documentation needed to support the request (i.e., assignment of payment).

Use of eContracts for ER Actions

1. FO will upload the original application files into eContracts, as well as the information outlined under "Process ER Requests" in this bulletin, if not already present in eContracts, using the ER Application Packet option under the destination folder and file. The FO will contact their ASTC-FO to let them know this has been completed.
 - Forms NRCS-CPA-1200, 1202 Appendix, Form NRCS-CPA-1155, Conservation Plan or Schedule of Operations, and Form NRCS-CPA-1156 Revision of Plan/Schedule of Operations or Modification of a Contract
 - Signature authority
 - Participant eligibility

2. The ASTC-FO will review documentation, print out the Form FSA-321, and sign.
3. The area office will send the electronic notification of the uploaded files to the SO Financial Management (FNM) Staff using eContract notification option for ER as well as sending an email notification to the ER coordinator.
4. After approval of the ER request, the FO will upload requested payment information, for those payments made outside of ProTracts, under the Payment Information, 1245 option, under the destination folder and file.

Note: The “Payment Number” block here will be completed with “ER.” After uploading this information the FO will need to utilize the eContract notification option for ER to send the electronic notification to the SO.

Note: These payment requests are forwarded to the Financial Assistance Program Division (FAPD) for processing. FOs should expect four to six weeks for payment to be processed.

Attached to this bulletin are an example memo (Attachment 2), electronic fillable forms NRCS-CPA-1245 (Attachment 3), and FSA-321 (Attachment 4). These forms are to be signed, as appropriate, prior to submitting. The fillable Form NRCS-CPA-1245 shall only be used when submitting ER or other preapproved payments outside of ProTracts.

All special circumstances will be handled by the SO on a case-by-case basis.

Contact: Please forward feedback and questions through established channels to Xiomara Eaves, Resource Conservationist, at 785-823-4568.

(Signed)

ERIC B. BANKS
State Conservationist

Attachments