

Part 512 – Conservation Program Contracting

Subpart J - Exhibits

512.91 L Termination with Cost Recovery Letter

DATE

(Name and address of participant)

Dear (participant name):

As of the date of this letter, the Natural Resources Conservation Service (NRCS) has terminated your (<< insert Program>>) contract (<< insert Contract Number>>) effective with receipt of this notification. Your contract has been terminated because (<< state detailed reason for termination including contractual and regulatory basis for violation >>). All rights to any payments under the contract are forfeited and NRCS may require participants to refund all payments and pay liquidated damages. Therefore, the State Conservationist has determined that NRCS must recover costs in the amount of \$ _____ for the termination of your contract because you have not (<<shown a good faith effort to implement the contract terms and conditions; have not remedied the violation within the agreed upon time; or whatever the applicable reason is>>).

This total amount of cost recovery includes the following:

- \$ _____ for cost share or incentive payments made to you under the contract.
- \$ _____ for liquidated damages. The assessment of liquidated damages does not constitute any penalty for the termination, but only serves as a recovery of NRCS administrative and technical costs. The amount of liquidated damages is up to 20percent of the total financial assistance funds obligated to the contract at the time of termination.

The termination of your (<< insert Program >>) contract and the amount of cost recovery assessed are appealable as these actions meet the definition of a decision adverse to the individual in accordance with 7 CFR 11.1. The right of NRCS to terminate your contract and to assess a recovery of costs, including assessment of liquidated damages is not appealable due to being matters of regulation.

If you feel that the decision to terminate your contract was in error, or that the amount of the cost recovery has been assessed incorrectly, or that NRCS did not consider all the facts as to why you were unable to comply with the contract terms and conditions, you may provide a written request for reconsideration, and either a full or partial waiver of the cost recovery to (<<enter the STC name and contact information>>). Any request for a

reconsideration or waiver must include the following information in accordance with (<< cite the appropriate regulatory section>>).

- The reason why the NRCS decision to terminate is incorrect.
- Type of waiver requested, full or partial.
- The good faith effort shown in implementing the contract terms and conditions.
- Personal or financial hardships that were beyond your control and that prevented implementation of the contract terms and conditions. Any claim of hardship must include sufficient supporting documentation that the personal or financial hardship existed, that it was beyond your control, and that it prevented you from being able to comply with the contract terms and conditions.
- When the personal or financial hardship began. If the hardship began prior to NRCS awarding the (<< insert Program>>) contract, your claim will not be considered as that is considered to be a pre-existing condition of which you were aware.

If you want to appeal the decision without consideration of a waiver, the following is provided as notification of your appeal and mediation rights under the Department of Agriculture (USDA) Administrative Appeals procedures, 7 CFR 614 and 7 CFR 11.

- You may appeal to the Farm Service Agency (FSA) County Committee at: (<<enter the appropriate contact information>>). Informal appeals to the FSA County or State Committee must, in accordance with the FSA appeals regulation at 7 CFR 780.11, include a review of the decision upon a finding of merit by FSA.
- You may request mediation from (<<enter the appropriate information regarding mediation>>).
- You may request appeal from the Assistant Director, (<<enter appropriate region>>) Regional Office, National Appeals Division at: (<<enter the appropriate contact information>>).

If you choose to appeal this decision or to request mediation, you must do so, in writing, no later than 30 days from the date that you received this notification. Your request must include the following information:

- A copy of this notification and decision.
- The reason why the NRCS decision is incorrect. (Note: You must indicate why the NRCS decision is erroneous to you, individually, as a matter of law and regulation).
- You must provide a copy of any request for appeal or mediation to this office at: (<<enter the contact information>>).

If you do not request either a waiver, appeal, or mediation within the time prescribed, you must submit your payment for the full amount of the cost recovery assessment to the following address, making your check payable to the Natural Resources Conservation

Service:

Natural Resources Conservation Service

Attn: Financial Management Section

(<<enter State Office Address>>)

(<<enter city,state,zip>>)

If after 30 days of your receipt of this letter you have not made payment as described above, collection will be turned over to the USDA National Finance Center (NFC). This is the standard automated billing utilized by NFC for collections. Please note, under debt collection procedures, all bills not paid within 30 days of the billing date will accrue interest. It is best, therefore, to process this payment in a timely manner.

If you have any questions regarding the matter, please call (<< enter name and contact information >>).

(Enter STC name)

State Conservationist

cc:

District Conservationist

ASTC (FO)

ASTC (P)

SAO