

For: State and County Offices

**NRCS National Bulletin 440.7.10, PGM - Payment Eligibility Issues in ProTracts**

Approved by: Deputy Administrator, Farm Programs



**1 Disseminating National Bulletins**

**A Background**

In agreement with NRCS, it was determined that each agency should share information concerning jointly-administered programs.

**B Purpose**

This notice provides information about disseminating NRCS National Bulletins that affect ongoing work with FSA.

**C Dissemination of National Notices**

NRCS will provide National Bulletins that affect work with FSA to the FSA National Office, who will provide these National Bulletins to FSA County Offices in a National CM notice.

**D National Bulletins**

Exhibit 1 contains NRCS National Bulletin 440.7.10.

<b>Disposal Date</b>	<b>Distribution</b>
November 1, 2007 4-13-07	State Offices; State Offices relay to County Offices

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## NB.440.7.10, PGM – Payment Eligibility Issues in ProTracts

National Bulletin: 440-7-10

March 16, 2007

Subject: PGM – Payment Eligibility Issues in ProTracts

**Action Required By: June 1, 2007****Purpose.** To provide reconciliation actions needed to resolve payment eligibility issues.**Expiration Date.** September 30, 2007

**Background.** The Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and Conservation Security Program (CSP) contracts require "Subsidiary Eligibility Determinations" using the Farm Service Agency (FSA) subsidiary eligibility Web service which returns a list of eligibility determination values. A sample review of payments made to program participants during 2006 revealed that many participants may be failin to meet one or more eligibility requirements. A new Fund Manager report entitled "Applications and Contracts with Eligibility Issues" has recently been developed to assist State and field offices in determining where eligibility is failin and help diagnose the cause(s).

**Attachment "A"** includes a spreadsheet that identifies three potential categories where eligibility needs to be verified by States. These areas include payments that are:

- Scheduled during 2007.
- Expected in future years.
- Final payments on contracts.

**Instructions:**

**States must reconcile eligibility issues identified in Attachment "A" as potentially improper payment categories by reviewing the following items:**

- Verify eligibility items using the ProTracts eligibility tool.
- Notify participants of actions needed to resolve eligibility issues and that failure to reconcile eligibility in 30 days will prompt NRCS to initiate contract termination.
- No future payment will be processed for participants failing to update their eligibility information.

**States are responsible for taking appropriate action by June 1, 1007, for each potentially improper payment identified on Attachment "A" for the specific State.** The reason for June 1, 2007, required date is this is the date that the eligibility Web service will switch to reading 2007 eligibility on prior year contracts. States must verify that either the payment eligibility issues have been resolved or that the payment is improper. All findings shall be documented in the contract file. States should coordinate with FSA to prioritize updating eligibility for affected participants. If payments need to be stopped because of eligibility issues, States must notify the participant of the payment stoppage and of the reason. Any payments issued to participants that have been verified as not being eligible must be refunded by the participant. Where ineligibility has been verified, States are required to terminate those contracts and request that the payment(s) be refunded due to ineligibility. **Attachment B** is a sample letter for program eligibility verification and certification. **Attachment C** is a sample letter that is to be used when contract termination and refunds must be requested.

<http://directives.sc.egov.usda.gov/viewDirective.aspx?id=3255>

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**Contact.** Questions concerning this bulletin may be directed to the Team Leader, Business Tools Team, at (202) 720-9483.

/s/

THOMAS W. CHRISTENSEN  
Deputy Chief for Programs

Attachment A - Potential Eligibility Issues - EQIP, WHIP, and CSP  
Attachment B - Sample Program Eligibility Certification Letter  
Attachment C - Sample Contract Termination - Payment Recovery Letter

<http://directives.sc.egov.usda.gov/viewDirective.aspx?id=3255>

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**Attachment B: Sample Program Eligibility Certification Letter**

VIA CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

DATE

(Name and address of contract participant)

RE: Program Eligibility Certification Required for (<<insert program>>) contract.

Dear (contract participant name):

This notice is to advise you that you must either establish or update your (individual or business) records at the local Department of Agriculture (USDA) Service Center. Your (<< insert Program>>) contract requires compliance with the Highly Erodible Land Conservation (HELIC), Wetlands Conservation (WC), and Adjusted Gross Income (AGI) provisions of the Food Security Act of 1985, as amended. Further, NRCS must confirm your interest as an agricultural producer as well as control of the property for the contract period. We must therefore confirm that you have been and are complying with these requirements for all past and future payments included in your (<< insert Program>>) contract.

We have conducted a review of your current certifications and find that one or more of the following conditions exist:

- Your compliance with the Highly Erodible Land and Wetland Conservation Provisions (HELIC/WC) could not be verified or you have not filed or updated form AD-1026 (HELIC/WC Certification) with the Farm Service Agency (FSA).
- You have not filed form CCC-526 (AGI Certification) with FSA.
- You have not filed form CCC-501A (Member's Information) with the Natural Resources Conservation Service (NRCS) to document information about each member of your business or joint operation. This form also requires you to present evidence of signature authority so that you may perform business functions for the entity or operation you represent.
- You are currently shown as being ineligible to participate in USDA programs based on your previously filed certifications on record at the local USDA Service Center.

**Action Required by Program Participant:**

You must file or update the requested certifications at the local USDA Service Center **within 30 days of receipt of this letter**. Failure to complete this action within 30 days will result in your contract being terminated, refund of all previously received payments and assessment of liquidated damages as provided by the contract terms and conditions.

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The actions required in this notification do not meet the definition of an adverse decision as provided by the National Appeals Division (NAD) Rules of Procedure, but rather is a request for you to provide that appropriate certification required by statute. Therefore, NRCS has not provided you with any rights to the USDA Administrative Appeals process. However, if you fail to respond to the actions requested in this notice and contract termination and repayment action is taken, you will be provided with the appropriate appeal rights.

If you have any questions or concerns, please contact this office at (<<insert phone and address>>).

Sincerely,

(Enter DC Name)  
District Conservationist

Cc:  
CED, FSA

## NRCS National Bulletin 440.7.10 (Continued)

**Attachment C: Sample Contract Termination – Payment Recovery Letter**

VIA CERTIFIED MAIL -- RETURN RECEIPT REQUESTED

DATE

(Name and address of contract participant)

RE: Contract Termination and Payment Recovery -- (&lt;&lt;insert program&gt;&gt;) Contract Number (&lt;&lt;enter contract number&gt;&gt;)

Dear (contract participant name):

The Natural Resources Conservation Service (NRCS) previously sent you a notice dated (<<enter date of Certification Letter>>) requesting that you update or provide certifications of compliance with the Highly Erodible Land Conservation (HELCS), Wetlands Conservation (WC), and Adjusted Gross Income (AGI) provisions of the Food Security Act of 1985, as amended. These certifications were needed to verify your eligibility to participate in the <<enter program acronym>>) as provided by statute and regulation. By letter dated <<enter date of the Certification Letter>>, you were to provide or update the required certifications not later than 30 days from receipt of that letter or your contract would be terminated.

Your failure to provide the required certifications within the requested timeframe has resulted in termination of your contract due ineligibility to participate in accordance with the <<enter date of certification letter>> notification. This contract termination is effective with receipt of this notice. In addition, ineligibility to participate requires that NRCS require you repay all cost-share payments previously received under this contract. Finally NRCS must assess liquidated damages in accordance with the contract provisions.

The total amount owed to NRCS is \$<<enter the amount of repayment of CS>> repayment of previously received financial assistance and \$<<enter the amount of Liq. Damages>> of Liquidated Damages for a total payment due NRCS of \$<<enter total of repayments and LD>>. Please make a check out to NRCS and submit to the following address:

&lt;&lt;Enter the address to send the check to&gt;&gt;

If payment is not received in 30 days, we will refer the debt to the USDA National Finance Center (NFC) for collection. NFC will apply interest to the collection of this debt, so it is in your best interest to repay the amount requested.

This decision meets the definition of an adverse decision under the National Appeals Division (NAD) Rules of Procedure. As such, NRCS is hereby providing you with the following appeal rights. You may appeal this decision by making a written request, including this notice, to any of the following review authorities:

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**Informal Appeals:** You may request either the FSA County Committee or the NRCS State Conservationist, but not both.

- Farm Service Agency (FSA) County Committee (<<enter address, fax>>)\*  
\*In the event that the FSA County Committee finds merit in your appeal, the committee must, in accordance with 7 CFR 614.10 and 7 CFR 780.11 refer the case to the NRCS State Conservationist for review of the Committee's findings and any evidence and testimony submitted by the participant. The State Conservationist's decision on review of the case must be incorporated into and form the basis of the County Committee's decision.
- Natural Resources Conservation Service, State Conservationist (<<enter the NRCS state Conservationist address, fax>>)

Appeal decisions issued by either FSA or NRCS will include further appeal rights to the National Appeals Division (NAD).

**Formal Appeals:**

- National Appeals Division (NAD) for the <<enter the NAD Region applicable to your state – see the NAD Website at: [http://www.nad.usda.gov/contact\\_us.html](http://www.nad.usda.gov/contact_us.html) for the applicable regional office address>>)

All requests for appeal must be in writing to the review authority. The request for review must include this notice as well as your reasons why the decision to terminate your <<enter the program acronym>> contract and collect all previously received financial assistance as well as liquidated damages is in error and does not comport with the program regulation (7 CFR <<enter the program part number, i.e., 1466 for EQIP; 636 for WHIP; and 1469 for CSP>>). **All requests for appeal must reach the reviewing authority no later than 30 days from the date that you received this notice.**

**Mediation:**

You may request mediation from: <<enter the source of mediation and address, fax>>

You may select any of these options in any order; however, if you select appeal to the National Appeals Division (NAD) you will be precluded from appeal to either FSA or NRCS. If mediation is selected, your appeal rights will be preserved as of the date that the mediation service receives your request as time will be tolled as of that date.

If you have questions about this notification, please contact this office.

Sincerely,

(Enter DC Name)

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District Conservationist

Cc:  
CED, FSA