

440-CPM Part 512-Subpart F-Contract Administration

ME512.58 Recovery of Costs and Liquidated Damages

E. Participant Notification, follow-up, and Other Considerations

(1)(ii):

- **Cost recovery may vary depending on program rules, and can include: financial assistance payments; incentive payments; liquidated damages; and interest.**
- **The State Conservationist will waive cost recovery on amounts less than or equal to \$1,000 as being in the public interest.**
- **Liquidated damages (administrative and technical assistance costs) will only be assessed on EQIP, CSP, and AMA contracts issued in 2003 or later (2002 or 2008 Farm Bill Contracts). NRCS has no program authority to collect liquidated damages on WHIP contracts.**
- **Recovery of cost share and incentive payments will be assessed on 1996, 2002, and 2008 EQIP, WHIP, CSP, and AMA contracts, for enduring practices that have been destroyed or are not maintained through the end of their lifespan, or if the agency has no assurance that the practice will be maintained for the expected lifespan.**
- **Cost recovery on annual land management practices that have been installed according to standards will be waived because the intended environmental benefit has been realized.**
- **The State Conservationist may grant full or partial waiver of cost recovery at the request of the participant, if the participant has a documented qualifying financial or personal hardship. The amount to be waived will be calculated using the Maine NRCS Cost Recovery Matrix, taking into account the hardship, and good faith effort of the participant and NRCS.**
- **Interest charges will not be applied to recovery of cost/liquidated damages by Maine NRCS. Interest will be applied per National Finance Center rules and provisions if and when an I-Bill is submitted by Maine NRCS for the purpose of collecting recovery of cost/liquidated damages.**

Maine NRCS COST RECOVERY MATRIX

Category 1: Economic or Personal Hardship	Clear economic or personal hardship, or involuntary loss of land, well documented by participant or verified by DC. Can include bankruptcy, foreclosure, forced liquidation of farm, equipment, or livestock	Significant economic or personal hardship that partially contributed to participant's inability to complete contract. Documented by participant or verified by DC.	No indication of economic or personal hardship by the participant, or the extent or severity of the claimed hardship does not justify a waiver. (ie. Low commodity prices, rising costs, unrelated expenses).
Waiver	100%	50%	0
Category 2: Good Faith Effort: Participant	Significant efforts made by participant to implement contract terms and conditions.	Limited efforts made by participant to implement terms and conditions. Many contract items behind schedule. Infrequent communication with NRCS	No significant efforts made by participant to implement contract terms and conditions, unresponsive to NRCS offers of assistance. Includes termination for cause.
Waiver	50%	25%	0
Category 3: Good Faith Effort: NRCS	NRCS has made every effort to ensure that participant could comply; contract modified; extended time, oral and written notices regarding contract obligation.	NRCS made partial effort to ensure that participant could comply with contract obligations Status reviews and follow up communication were infrequent.	NRCS assistance was not provided in a timely manner and follow-up was limited. Notices regarding contract obligations or need to complete practices on schedule not provided in a timely manner. Engineering designs assigned to NRCS engineering staff not provided in a timely manner.
Waiver	0	25%	50%
Category 4: Case File Documentation	Case file contains signed contract and appendix. Evidence of all contract activity including modifications, hardship and good faith efforts (participant and NRCS); includes Cons 6 notes documenting all pertinent oral and written communication.	Case file is missing key information such as signed contract and appendix, records of assistance provided, notice of non-compliance, status review records.	
Waiver	0	100%	

- This matrix is used by the State Conservationist to calculate cost recovery waivers
- Waivers apply to cost share payments, incentive payments and liquidated damages
- All categories are considered when calculating Waivers