

# How to manage contracted practices that are not on schedule

Attachment to ME 300-12-2 10/14/2011

## Follow policy outlined in 440 CPM, Part 512, Subpart F

Contract changes, edits, or updates that do not require participant signatures include—

### 512.50(C)

- (i) **Scheduling changes within the original length of the contract. When contract items cannot be completed in the year scheduled, but will be completed no later than 1 year after the originally planned year, a signed contract modification in ProTracts will not be required to delay the practice. However, when this provision is used, it will be noted on a formal contract review using Form NRCS-CPA-13, "Contract Reviews," because the contract is not on schedule.**

**Note:** Only one contract review is required each calendar year. If a NRCS-CPA-13 form has already been completed for the current calendar year, there is no need to complete another one.

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**512.55 (B)(2)**

(i) **A copy of CPA-13 will be provided to the participant to communicate the need to implement the delayed contract items no later than 1 year after the originally planned year.** (Exception: Items may not be delayed to the last year of the contract without a modification to reschedule the item and extend the contract expiration date.)

**Note:** If a CPA-13 has already been completed for the current calendar year, please notify the participant in another way and be sure to document that notification in the Conservation Assistance Notes. If the notification was in writing (i.e., a practice reminder letter) place a copy in the contract file.

(ii) **A hardcopy of the completed NRCS-CPA-13, "Contract Review," will be placed in the CPC case file. ProTracts does not archive contract reviews; only the most recent form is stored in the database.**

**Note:** currently ProTracts does hold prior year CPA-13 forms in the contract History module..but we cannot guarantee that this will always be the case.

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**At the end of the grace period (1 year after the originally planned year)\*:**

**512.55 (2)**

(iii) A follow-up review [the next calendar year] will be required on Form NRCS-CPA-13, "Contract Review". **If the follow-up review indicates that delayed practices continue to be behind schedule, these items must be rescheduled on Form NRCS-CPA-1156, "Revision of Plan/Schedule of Operations or Modification of a Contract,"** within the specific program contract period and limitations.

(Exception: Refer to 440-CPM, Part 512, Subpart E, "Contracting," Section 512.45(C), when a participant fails to start a practice within the first 12 months of the contract.)

**\* The 1 year grace period pertains ONLY to the year immediately following the originally scheduled implementation year. If an item cannot be implemented in the next year, or if the item is already > 1 year past the originally scheduled implementation year, the item must be rescheduled.**

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**After rescheduling the practice through a modification (CPA-1156):**

**512.55 (B)(3)** If the participant **fails to implement the rescheduled items** or if other contract provisions are not being met, the **NRCS representative will initiate Form NRCS-LTP-153, "Agreement Covering Non-Compliance with Provisions of Contract,"** within the ProTracts "Contract Review" module, citing the specific basis for the potential contract violation.

(i) The **DC will work with the participant** to resolve all issues and document all actions that need to be taken to complete the contract, including establishing a reasonable timeframe, **not to exceed 1 year, for the participant to comply with the contract provisions** and notifying the participant of the consequences of failure to remedy the potential contract violation. This **document will be signed by the NRCS approving official, STC or designee, and the participant.**

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**512.55 (3)**

(ii) Adverse actions that may be taken by NRCS for a continuance of the potential violation, and of which the participant must be notified, include, but are not limited to, the following:

- Contract termination
- Forfeiture of all rights to any payments under the contract
- Recovery of all previously paid financial assistance
- Assessment of liquidated damages (as allowed by applicable program regulation)
- Assessment of late payment interest on delinquent debts

**512.55 (4)** If the participant cannot or will not complete the contract obligations as previously agreed to in Form NRCS-LTP-153, "Agreement Covering Non-Compliance with Provisions of Contract," or in formal correspondence, follow the procedure in Section 512.57, "Cancelling and Terminating Contracts." Since contract termination is an adverse action, program participants must be offered appeal rights, as described in 440-CPM, Part 510, Subpart B, "Preliminary and Final Technical Determinations."

### In a nutshell:

**Chance #1-Grace Period:** If practice is one year past the ORIGINAL scheduled completion year, **and** will be implemented no later than one year after the originally planned year, a modification is NOT required. However, a NRCS-CPA-13 Contract Review form must be completed and provided to the participant. Put a copy in the contract folder.

- If a NRCS-CPA-13 has already been completed for the current calendar year, notify the participant in another way and document the notification in the Conservation Assistance Notes. If the notification is in writing (i.e., a practice reminder letter), put a copy in the contract folder.
- If the practice will NOT be implemented in the subsequent year, this "Grace Period" does not apply. A modification will be required, per "Chance #2".

**Chance #2-Mod required:** A NRCS-CPA-13 contract review **must** be completed in the next calendar year to document the status of the delinquent practice(s), with a copy provided to the participant and one put in the contract folder. If still behind schedule, modify the contract to re-schedule the past due practice(s).

**Start here if the item is already (or will be) > 1 year past the original scheduled completion year.**

**Chance #3-Non Compliance form 153 required:** If the past due practices are not implemented according to the modified schedule, then a NRCS-CPA-153 form must be completed in the ProTracts Contract Review module, outlining the plan to implement the past due practice(s) and setting a reasonable time frame, not to exceed one year, for the participant to comply. The NRCS-CPA-153 form must be signed by NRCS and the participant. Once all signatures are in place, provide a copy to the participant and put one in the contract file.

**Start here if the item has already been rescheduled at least once. REMEMBER: The one year Grace Period does not apply to practice items that are (or will be) > 1 year past the originally scheduled completion year or have been rescheduled before.**

**No chances left-Termination:** If the participant does not implement the past due practice(s) within the agreed-to time frame documented on the NRCS-CPA-153 form, **request contract termination.**



Questions?

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