

USDA Contract Freezes and Terminations: Legal Action Steps for Farmers with Signed EQIP and CSP Contracts

This resource is written for farmers and ranchers nationwide who have a signed contract with USDA NRCS under the EQIP or CSP program for environmental improvements but have concerns that their contract is frozen, under review, or terminated, and who are uncertain of their rights to receive reimbursement as well as their ongoing obligations under the signed contract.

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***Disclaimer:** Farm Commons offers this educational resource to outline selected legal options and action steps for farmers affected by USDA's funding freeze. This resource does not provide legal advice and is not an offer to provide legal services. No attorney-client relationship is formed by the reading of this document.*

Farm Commons is not currently involved in any litigation on the USDA's funding freezes. Unprecedented executive actions are occurring at unprecedented speed. The legal issues involved are complex, everchanging, and uncertain. The information we provide here is based on our current knowledge and understanding as well as ongoing conversations with lawyers and organizations. As the situation and our understanding continue to evolve, we will update this resource. Please seek the advice of a lawyer before deciding which action step is best for your situation.

Do farmers have a legal claim?

The sudden freezing and cancellation of funding for USDA programs like EQIP (Environmental Quality Incentives Program), CSP (Conservation Stewardship Program), and others is deeply troubling. These are formal contracts, and many farmers made long-term plans based on the expectation that these funds would be available.

In many cases, these USDA programs involve legally binding contracts.

Farmers enter into agreements with the USDA, expecting the promised funds to be delivered over the contract term.

If the government withholds payments under these contracts, farmers may have legal remedies—including **breach of contract, violation of the Administrative Procedures Act**, and potentially **constitutional claims under the Equal Protection Clause** and others.

The EQIP and CSP contracts that we've seen allow the USDA to terminate the contract if it determines that "termination is in the public interest." The government will likely rely on this, but court precedent exists to challenge USDA's reasoning.

That said, these are complex legal claims with a lot of uncertainty. The outcome will depend on various factors, including the specific language of your contract, the precise funding source, and the political climate.

Are farmers required to perform on the contract (proceed with the work) even if the funding has been frozen?

We do not know, but the risk is real. If USDA freezes payments but still expects farmers to fulfill their contract obligations—without providing assurance of reimbursement—USDA could later argue that the farmer is in breach of contract, giving USDA a reason to legitimately terminate the contract. This would be a bad-faith maneuver by USDA, but it could happen.

This is known as "impossibility of performance"—where one party (USDA) makes it impossible for the other (the farmer) to comply, then uses that as an excuse to terminate the agreement. Farmers are encouraged to act proactively to protect themselves.

- **Begin gathering documents** (contracts with vendors, etc.) to show how the USDA's funding freeze is preventing you from performing your contractual obligations.
- **Consider writing a "demand letter"** to the USDA NRCS or other office that administers your contract to request written clarification on whether the USDA intends to waive non-performance penalties due to the funding freeze. Farmers can emphasize their failure to perform is due to USDA's own actions, not the farmers'.
- **Consider filing a formal appeal** through the USDA National Appeals Division (NAD) appeal process to proactively challenge the agency's decision to freeze your funding.

Let's dig into the USDA NAD appeal process.

Where can farmers bring an appeal or legal challenge?

First and foremost, read the signed contract. It will tell farmers where and how to appeal a decision or action under the contract. Farmers who have lost their signed contract can find copies of the general contract provisions at the USDA website or contact their local NRCS office for a copy. Look for the language: "Rights to Appeal and Request Equitable Relief" See., e.g., the EQIP "General Contract Provisions" Section 11.

Most USDA contracts require farmers to go through an administrative appeal process before filing a legal action in court. In many circumstances, farmers can fulfill this requirement by filing a formal appeal directly to the USDA's National Appeals Division (NAD). [7 CFR § 11.5\(b\)](#).

Where farmers can file a legal appeal depends on the specific contract language, the USDA office that administers your contract, as well as when and whether the farmer has received a formal notification from the USDA that the funding has been frozen or canceled. It's incredibly confusing, especially when different USDA offices are handling these freezes inconsistently across regions and programs.

The bottom line is: Farmers must follow the process set forth in the contract to preserve their right to file a legal claim in court, should it result in that.

When should farmers bring an appeal or legal challenge?

Time is of the essence! If the contract is subject to the NAD process, farmers must file an administrative appeal within 30 days of receiving an “adverse decision.” From what we’ve seen so far, all EQIP and CSP contracts are subject to the NAD process.

What is an “adverse decision”?

The 30-day clock starts ticking when an adverse decision is received. In the best-case scenario (for appeals purposes, at least), farmers would receive a letter officially stating a clear contract termination in person or by certified mail. This would be an obvious “adverse decision.”

The difficulty is that most farmers aren’t in this position right now. There is a possibility that less formal written notices that confirm payment is delayed or stopped could count as an “adverse decision” and start the 30-day clock. **If this is the case, farmers who have received emails or other communication indicating a delay or stoppage of payment must file an appeal with the NAD within 30 days of receiving it. Otherwise, farmers run the risk of not being able to bring any legal challenge to the USDA’s decision to freeze or terminate funding on contract.**

What does this all mean for individual farmers?

Based on what we know now, here are the best options for minimizing legal risk and preserving legal rights if your contract specifies that you must go through the NAD process (e.g., EQIP, CSP). Let’s break this down:

- **Scenario 1. Have you received a written notification from the USDA stating that your contract is terminated or funding is frozen?**
 - **First, if your contract has been terminated, please reach out to us at info@farmcommons.org or 218 302 4030 for more information, as your situation may need urgent attention to preserve your rights.**
 - **The trigger for the 30-day NAD deadline is the date you receive written notice (email or letter) from USDA stating that funding is**

terminated or frozen. The letter itself could be considered an “adverse agency decision.” *For example, if you received an email or letter on February 3, you must file an NAD appeal on or before March 4.*

- **What are your options?**

- **Wait and see.** But note, you may waive a future opportunity to bring a legal claim.
- **Immediately file an NAD appeal** to challenge the decision. *This option preserves your right to bring a legal claim later.*
 - **Explain that the funding freeze is an adverse decision that effectively denies you benefits and is making it challenging for you to perform your obligations under the contract.**
 - You must then wait for a decision on your appeal. If the agency still says the contract is terminated or funding is frozen, you may file a lawsuit in a U.S. District Court.

➤ **Scenario 2. Has the USDA verbally communicated a freeze but not given you a written notice?**

- **The trigger for the 30-Day NAD deadline likely hasn’t started yet.** That’s because verbal notices don’t count as “adverse decisions.”
- **What are your options?**
 - **Wait and see.**
 - **Send a formal written notice to the USDA office administering your contract requesting written clarification about the specific status of your contract.** *This option preserves your right to bring a legal claim later.*
 - **Describe why the freeze is making it impossible for you to fulfill your obligations under the contract**
 - **Make specific requests:** (1) What is the expected timeline for payments to resume? (2) Will they grant you an extension for the period of the pause? (3) Will they agree to waive non-performance penalties due to the funding freeze?

- If the USDA provides an unfavorable response in writing, you can then file an NAD appeal. You must do so within 30 days of receiving their response.
- If the USDA fails to provide a written response within a reasonable time (e.g., 14 days), you may file an NAD appeal under the argument that the USDA's failure to act is in itself an "adverse decision."

➤ **Scenario 3. Have you received NO communication from USDA and aren't sure whether your contract is frozen or terminated?**

- **The trigger for the 30-day NAD deadline likely hasn't started yet.** The lack of an agency decision is a problem, but USDA might argue that no appealable action has occurred yet.
- **What are your options?**
 - **Wait and see.**
 - **Send a formal request for a written determination to the USDA office that administers your contract or grant for clarification about the specific status of your contract.** *This option preserves your right to bring a legal claim later.*
 - If the USDA provides an unfavorable response, you can then file an NAD appeal. You must do so within 30 days of receiving their response.
 - If the USDA fails to provide a response within a reasonable time (e.g., 14 days), you may also file an NAD appeal under the argument that the USDA's failure to act is in itself an "adverse decision."

➤ **Scenario 4. Are you still receiving reimbursements?**

- **Stay informed and document everything just in case.**

Next Steps:

- **If you fall within Scenarios 1-4, consider filing an NAD Appeal or sending a Demand Letter to seek clarification regarding the status of your contract.** See our resource *"USDA Contract Freezes: Filing a NAD Appeal or Demand Letter"* to walk you through the steps, including sample letters that you can use.
- **Gather your documents.** This includes your contract, any communications you've received from the USDA office that administers your contract, as well as any receipts for costs or other proof to show how you might have been harmed by the delay in funding.
- **Continue to document everything in the coming days, weeks, and months.** This includes your performance under the contract, such as the completion of required conservation practices. Or, reasons why it is impossible for you to perform without these funds. This could help demonstrate that you are still fulfilling the terms of the contract in case the funding is resumed and/or support your case for impossibility. Also, **track all communications** with NRCS and keep records of **any requests** made, as this could be useful in building your case if you need to go to court.
- **Consider sharing your story.** Channels could include social media, local media (letter to the editor), representatives in Congress, and your customers. Ask them to share your story with their friends and family, and contact their representatives in Congress.
- **Stay tuned and reach out to us.** We will be preparing additional educational materials in the coming days and weeks. Reach out to us if you would like more information about the appeals process.