

For: State and County Offices

**Actively Engaged, Direct Attribution, and
Adjusted Gross Income (AGI) Certification Statements for ECP**

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (2008 Act), Section 1603 amended the provisions governing actively engaged/payment eligibility, AGI limitations, and provided for direct attribution of payments for **most** FSA conservation programs. The ECP Program Manager sent an e-mail in October to **all** State Conservation Specialists, suspending ECP AD-245 approvals and payments. For ECP, the provisions on actively engaged and direct attribution will be applied to AD-245's approved beginning **October 1, 2008**. Additionally, for ECP funds currently subject to AGI, the new AGI limitations will be applied to AD-245's approved on or after October 1, 2008.

B Purpose

This notice provides:

- authority to approve ECP AD-245's with an October 1, 2008, or later, effective date for producers who agree to actively engaged, direct attribution, and AGI provisions that became effective October 1, 2008
- an interim policy about ECP producer certification for actively engaged, direct attribution, and AGI until the policy is published in FR
- AD-245A (Exhibit 1).

Note: AD-245A will be made available on the FSA Internet and eGov web sites as soon as possible.

Note: A future notice will provide policy for issuing ECP cost-share payments that are temporarily suspended.

Disposal Date	Distribution
October 1, 2009	State Offices; State Offices relay to County Offices

Notice ECP-52

1 Overview (Continued)

C Contact

If there are questions about this notice, contact Katina Hanson, ECP Program Manager, by either of the following:

- e-mail to **katina.hanson@wdc.usda.gov**
- telephone at 202-720-0062.

2 Policy

A ECP AD-245's Subject to Actively Engaged, Direct Attribution, and AGI

All producers with ECP AD-245, approved on or after October 1, 2008, **must** meet the actively engaged/payment eligibility, direct attribution, and AGI provisions enacted in the 2008 Act. Producers who do **not** want to comply with actively engaged/payment eligibility, direct attribution, and AGI provisions may withdraw their ECP AD-245, within 60 calendar days of being notified by FSA of the opportunity to withdraw, or the County Office **must** deny the producer's request.

B Certification Statement

For ECP AD-245's approved on or after October 1, 2008, each signatory on an ECP AD-245 **must** sign the AD-245A **before** COC can approve ECP AD-245.

C Notification to Producers

All producers with ECP AD-245's that were **not** approved **before** October 1, 2008, **must** be notified that:

- AGI provisions will be applied to ECP AD-245
- AD-245A **must** be signed by **each** signatory on ECP AD-245 **before** ECP AD-245 may be approved.

B Approving AD-245's

Producers with signed AD-245's for which approval was suspended on or after October 1, 2008, must agree to sign the AD-245A. COC may approve AD-245 provided that all:

- signatories on AD-245 sign the AD-245A
- other eligibility requirements are met.

Note: If producers refuse to sign the AD-245A within 60 calendar days of being notified, COC shall void AD-245.

Notice ECP-52

3 Action

A State Office Action

State Offices shall ensure that County Offices:

- understand the provisions of this notice
- notify affected producers of the provisions of this notice.

B County Office Action

County Offices shall:

- notify affected producers of the provisions of this notice
- ensure that COC's approve ECP AD-245's **after** receipt of the signed AD-245A
- ensure that COC's withdraw AD-245's for producers who refused to agree to comply with actively engaged/payment eligibility, direct attribution, and AGI provisions.

AD-245A, Addendum to AD-245 to Certify to the Actively Engaged, Direct Attribution and Adjusted Gross Income Provisions

This form is available electronically.

Form Approved - OMB No. 0560-0082

AD-245A (11-19-08) U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency ADDENDUM TO AD-245 TO CERTIFY TO THE ACTIVELY ENGAGED, DIRECT ATTRIBUTION AND ADJUSTED GROSS INCOME PROVISIONS	1A. State Code	1B. County Code
	2. AD-245 Control Number	
	3. Farm Number	

4. CERTIFICATION STATEMENT

This AD-245 Addendum is entered into by the Farm Service Agency (FSA) and the undersigned producer(s) who have enrolled into the Emergency Conservation Program (ECP) under the AD-245, listed in Item 2, above.

By signing this AD-245 Addendum, the producer(s) and FSA understand and agree that:

- the Actively Engaged/Payment Eligibility provisions of section 1001A of the Food Security Act of 1985, as amended, will be used to determine one's status as an agricultural producer for purposes of this AD-245.
- the Direct Attribution provisions of Section 1001 of the Food Security Act of 1985, as amended, provide that payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive payments.
- the Direct Attribution provisions of Section 1001 of the Food Security Act of 1985, as amended, will be utilized by FSA with regard to payments made under the AD-245 listed in Item 2, above.
- the Adjusted Gross Income (AGI) provisions of Section 1001D of the Food Security Act 1985, as amended, provide that a person or legal entity is not eligible to receive conservation program benefits if the average adjusted gross income of that person or legal entity exceeds \$1 million.
- as determined by FSA, the AGI provisions of Section 1001D of the Food Security Act, as amended, may apply to the AD-245 listed in Item 2, above, depending on the funding source for the AD-245.
- FSA intends to publish a final rule for Direct Attribution, AGI and Actively Engaged/Payment Eligibility in the **Federal Register**. Following publication of that final rule, the producer may terminate the AD-245 listed in Item 2, above, within 60 days of being notified of the opportunity to do so by FSA. If the producer terminates the AD-245, the FSA will not require refunds of ECP payments associated with the AD-245, and the producer may reapply for ECP.

It is so agreed and understood.

4A. Producer's Signature (By)	4B. Title/Relationship (Individual Signing in the representative capacity)	5. Date (MM-DD-YYYY)
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4A. Producer's Signature (By)	4B. Title/Relationship (Individual Signing in the representative capacity)	5. Date (MM-DD-YYYY)
5A. Signature of CCC Representative	5B. Date (MM-DD-YYYY)	5C. County FSA Office Name and Address (Including ZIP Code) Telephone No. (Including Area Code):

NOTE: The primary authority for requesting and safeguarding the information described on this form is the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). Additionally, the authority for requesting this information is 7 CFR Part 1400 and 7 CFR Part 701. The information requested is necessary for AD-245 approval. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA. The information collected as a result of this form may be released to USDA employees, USDA contractors, or authorized USDA cooperators who are bound to safeguard the information under Section 1619 of the Food, Conservation and Energy Act, the Privacy Act of 1974, the E-Government Act of 2002 and related authorities. This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title I, Subtitle F - Administration). The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714; and 31 USC 3729, may be applicable to the information provided. **RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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