

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

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**Emergency Conservation Program  
1-ECP (Revision 3)**

**Amendment 3**

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**Approved by:** Acting Deputy Administrator, Farm Programs



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**Amendment Transmittal**

**A Reasons for Amendment**

Paragraphs 1, 2, 4, 5, 34, 52, 91, 92, 95, 97, 98, 114, 154, 176, 181, 211, 215, 235-239, 295, 333, 402, 417, 418, 434, and Exhibits 9 and 16 have been amended to update references to persons and legal entities.

Paragraph 5 has been amended to reference 4-PL for direct attribution and payment limitation.

Paragraph 6 has been amended to:

- remove direct references to “Legislative Authority” and “Effect on Sites”, and instead reference 1-EQ for **all** environmental and cultural resource concerns
- clarify refunds of payments for practices performed under other programs
- incorporate wetlands from withdrawn paragraph 115.

Paragraph 7 has been updated to reference Loss Assessment Report instead of a Flash Report.

Paragraph 9 has been amended to clarify State supplementation.

Paragraph 10 has been amended to make completing CCC-770 ECP-1’s and CCC-770 ECP-2’s optional.

Paragraph 21 has been amended to clarify:

- required information about disasters
- authority to implement ECP.

Paragraph 34 has been amended to clarify COC delegated authorities for approving applications for C/S.

## **Amendment Transmittal (Continued)**

### **A Reasons for Amendment (Continued)**

Paragraph 35 has been amended to:

- require a copy of a Loss Assessment Report instead of a Flash Report
- revise the statement on frequent damage
- allow for supporting documentation to be submitted by e-mail.

Paragraph 42 has been amended to clarify maximum C/S payment limitation.

Paragraphs 43 and 44 have been combined and percent of cost levels for C/S have been removed.

Paragraph 45 has been amended to:

- clarify that C/S levels with limitations may be established for practices and components
- include NIFA as a source for cost data.

Paragraph 46 and 48 have been combined and amended to allow solar- and wind-based power sources under specific circumstances and incorporate ineligible items from subparagraph 293 B.

Paragraph 49 has been removed because flat rates are no longer applicable to ECP.

Paragraph 51 has been amended to remove the requirement that eligible public land must be noncropland.

Paragraph 76 has been amended to:

- include new requirements for State MOA's on technical services
- provide a revised template for State MOA's.

Paragraph 77 has been amended to:

- require AD-672's for technical service
- provide required entries for AD-672's and an example AD-672.

Paragraph 91 has been amended to reference 4-PL for eligibility determinations.

Subparagraph 92 A has been amended to incorporate minor applicant eligibility from withdrawn paragraph 96.

Paragraph 93 has been amended to remove reference to "persons".

Subparagraph 95 B has been amended to replace reference to "sportsmen's clubs" with "sports clubs."

Subparagraphs 98 C and D have been reversed for clarity.

## Amendment Transmittal (Continued)

### A Reasons for Amendment (Continued)

Subparagraph 98 G has been amended to reference paragraph 92 for determining eligible persons and legal entities.

Subparagraph 110 A has been amended to clarify that land physically located in a portion of a county approved for ECP may be eligible for C/S.

Subparagraph 110 B has been amended to clarify examples of eligible and ineligible land.

Paragraph 115 was withdrawn because the content was moved to subparagraph 6 H.

Paragraph 116 has been amended to clarify eligibility of land with the same or similar practices under EWP, EQIP, or other C/S programs.

Paragraph 171 has been amended to:

- require a photograph from onsite inspections
- document requirements for requests for waivers of onsite inspections
- clarify environmental compliance evaluation requirements.

Paragraph 172 has been amended to:

- separate COC determining eligibility and ineligible practices
- incorporate disapproved practices language from subparagraph 175 C into subparagraph B
- clarify that presence of debris may be a new conservation problem
- update reference to FSA-850.

Subparagraph 173 B has been amended to:

- clarify when prioritization factors should be used
- remove duplicate “safety factor” and revise safety factor example
- add “status as a limited resource producer” as a prioritization factor.

Paragraph 175 has been amended to:

- to make CCC-770 ECP-1’s optional
- clarify that CPA-052 (or NRCS State equivalent) may be completed instead of FSA-850
- remove disapproved practices that were moved to paragraph 172
- clarify in subparagraph D:
  - that all bullets in the subparagraph **must** apply to grant relief
  - the time period for which AD-245’s **must** be filed
  - that the disaster **must** be ECP designated.

## **Amendment Transmittal (Continued)**

### **A Reasons for Amendment (Continued)**

Paragraph 176 has been amended to:

- move prioritization of limited resource producers to subparagraph 173 B
- clarify limits on limited resource producer C/S rates.

Paragraph 178 has been amended to:

- require reviewing pending AD-245's at minimum every 90 calendar days
- clarify requirements for modifying application amounts and county funding requests.

Paragraph 179 has been amended to:

- clarify C/S approval authority
- amend requirements for submitting requests to CEPD.

Subparagraph 180 A has been amended to be consistent with subparagraph 173 B.

Subparagraph 182 B has been amended to allow flexibility on practice extension lengths.

Subparagraph 184 B has been amended to require that cancellation of AD-245's may only be suspended for 60 calendar days after the practice expiration date.

Paragraph 212 has been amended to clarify filing in a timely manner and that funds shall be deobligated when AD-245 is canceled.

Subparagraph 215 D has been removed because flat rates are no longer applicable to ECP.

Subparagraph 236 has been withdrawn because the content was moved to subparagraph 235 C.

Subparagraphs 237 D and E have been combined and amended for clarity.

Paragraph 240 has been removed to disallow considering contributions from ineligible contributors in unusual circumstances because of direct attribution of payments.

Paragraph 272 has been amended to clarify that the producer agreement to maintain a practice is signed on AD-245.

Paragraph 292 has been amended to update language on ineligible contributions, producer maximum payments, and requirement to complete CCC-770 ECP-2's.

Subparagraph 293 B has been amended to reference subparagraph 46 B.

Subparagraphs 294 D and E have been amended to remove references to flat rate because flat rates are no longer applicable to ECP.

## **Amendment Transmittal (Continued)**

### **A Reasons for Amendment (Continued)**

Subparagraph 296 A has been amended to update instructions on completing AD-245 to leave blanks in the blocks for “Setoff”, “Debt Assessment”, and “Net Payment” because they will be automated in a separate system.

Paragraph 331 has been amended to clarify information on issuing program payments.

Paragraph 336 has been amended to incorporate offset and determining priorities from withdrawn paragraph 371.

Paragraph 351 has been amended to remove direct reference to checks or EFT’s because checks are no longer issued at the County Office level for ECP.

Part 4, Section 5 has been withdrawn because debt identification, assignment, and deductions are now automated.

Subparagraph 393 B has been amended to reduce the percentage of ECP applications that must be reviewed when ECP applications received in a County Office are equal to or greater than 1,000.

Paragraphs 401 through 407 have been rearranged and amended for clarity.

Exhibit 2 has been amended to revise the limited resource producer definition to be consistent with the provisions in paragraph 176.

Exhibit 5 has been amended to provide an updated example CCC-770 ECP-2.

Exhibit 8 has been amended to:

- remove all references to the percent of actual cost rate type because percent of actual cost rate types are no longer applicable to ECP
- include updated language on the requirement for FSA-850 for Practice EC1
- clarify policy for C/S of components used to repair or replace animal waste lagoons.

Exhibit 11 has been amended to provide an updated example CCC-770 ECP-1.

Exhibit 16, paragraph C has been amended to remove item 21 from entries reported by County Office on ACP-153A because checks are no longer issued at the County Office level for ECP.

**Amendment Transmittal (Continued)**

<b>Page Control Chart</b>		
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**Part 1 Basic Information**

**Section 1 General Provisions**

**1 Program Authorization**

**A Program Purpose**

ECP is established to:

- rehabilitate farmlands and conservation facilities damaged by:
  - wind and water erosion
  - floods
  - hurricanes
  - other natural disasters
- provide C/S assistance to eligible agricultural producers during periods of severe drought to:
  - supply emergency water for existing irrigation systems serving orchards and vineyards
  - \*--supply emergency water for livestock, including confined livestock and poultry.--\*

Irrigations systems are:

- buried mainlines
- ditches
- other permanently installed systems.

**Note:** Center pivot, hand move, and wheel move systems are not considered permanently installed systems for purposes of ECP.

**B Sources of Authority**

The Agricultural Credit Act of 1978 (92 Stat. 420-434), as amended by the Disaster Assistance Act of 1989, Section 502, is the statutory authority for ECP.

## 1 Program Authorization (Continued)

### C ECP Objectives

The objective of ECP is to provide C/S assistance to agricultural producers who have suffered severe damage to their farmland because of a natural disaster.

- The damage must be of such magnitude that it would be too costly for the producer to rehabilitate without Federal assistance.

**Note:** ECP is **not:**

- an “entitlement” program
- intended that everyone who suffers a loss is entitled to a payment.
- COC shall ensure that the extent of the damage is severe enough to necessitate Federal assistance. See Exhibit 4.

### D Handbook Purpose

This handbook provides policies and procedures for STC’s, COC’s, and State and County Offices administering ECP.

These procedures cover the following areas:

- reviewing State and county programs
- managing ECP funds allocated to State and County Offices
- providing technical services needed for designated practices
- \*--eligibility of persons, legal entities, land, and practices--\*
- administrative responsibilities of STC’s and COC’s
- ECP practices and guidelines.

**2 Related Handbooks**

**A Handbooks and Forms**

Follow provisions in 1-CONSV, except as instructed in this handbook.

**B Other Related Handbooks**

Handbooks that relate to ECP are listed in the following table.

<b>IF the material concerns...</b>	<b>THEN see...</b>
audits and investigations	9-AO.
State and County organization and administration	16-AO.
appeals	1-APP.
directives management	1-AS.
clearing forms	3-AS.
records management	25-AS.
common management provisions	1-CM.
farm reconstitutions	2-CM.
conservation automation	1-CONSV.
quality control	1-COR.
compliance	2-CP.
AD-1026 requirements	6-CP.
failure to fully comply	7-CP.
environmental compliance	1-EQ.
making payments or assignment of payments	1-FI.
handling receipts and deposits	3-FI.
establishing claims	58-FI.
withholding nonresident alien income tax	62-FI.
assignments and joint payments	63-FI.
*--determining eligible persons, legal entities, and payment limitation	4-PL.--*
* * *	* * *
CRES procedures	DM 9500-1.
*--Loss Assessment Reports--*	EOH.
USDA Potential Natural Disaster Damage Assessment Reports	EOH.

### 3 Relief Actions

#### A Waiver Authority

Any procedural provision in this handbook may be waived by ECP-PM:

- unless prohibited by statute or regulation
- upon justification and recommendation by STC.

#### \*--B Additional Waiver Authority

Waiver authority in this paragraph is in addition to, and is **not** a substitution for, either of--\* the following:

- appeals provisions in 1-APP
- waiver provisions in 7-CP.

**4 AD-1026 Requirements**

**A AD-1026 Certification**

\*--AD-1026 certification is required for persons and legal entities who request benefits under--\*  
a program covered by HELC and WC provisions and for their affiliates with farming  
interests.

**\*--B Additional Information About AD-1026 Certifications**

For additional information about AD-1026 certifications, see 6-CP.--\*

**5 Payments**

**A Maximum Payment Limitation**

\*--The maximum payment per person or legal entity, per disaster, including payments from pooling agreements, is \$200,000. Direct attribution will be applied according to 4-PL, Part 5.

**B Program Payment Information**

See 4-PL for information about payment limitations.--\*

**C Assigning Program Payments**

Payments earned may be assigned according to 1-CM or 63-FI.

6 Special Concerns

\*\*\*

A COC Action

COC shall not approve C/S on land that will have an adverse impact on endangered species  
\*--or historic properties according to 7 CFR Part 799 and 1-EQ.--\*

B Refund of ECP Payment

Producers are **not** eligible to receive compensation under ECP and \*\*\* WRP or  
Emergency WRP on the same acreage.

ECP payments received on acreage offered for WRP or Emergency WRP must be refunded if  
the ECP practice is still within its lifespan before WRP or Emergency WRP payments will be  
disbursed.

Process refunds according to 3-FI.

**6 Special Concerns (Continued)**

**F Land Under Other C/S Programs**

Producers are not eligible to receive compensation under ECP and any other Federal or State C/S program for the same component on the same land.

Producers receiving a CRP C/S payment are not eligible to receive an ECP payment on the same land.

**G Land Under Practice Maintenance From Other C/S Program**

A producer is not eligible to receive compensation to rehabilitate any land on which the producer is required to maintain the practice or the land under any other Federal or State C/S program.

**\*--H Wetlands**

Cost sharing shall not be approved for practices that would drain or negatively impact the quality of any wetlands as defined in the NRCS Field Office Technical Guide.--\*

**7 Record of Natural Disasters**

**A Maintaining County History**

County Offices shall maintain a permanent file on natural disasters that have severely damaged agricultural lands in the county, regardless of whether disasters were approved for ECP. This information may be used as a basis for future program requests and designations.

**\*--B Minimum Permanent File Requirements--\***

The permanent file may include news articles, but shall include as a minimum:

- dates
- type of natural disaster
- a record of the areas affected
- total program funds earned, if applicable
- map with areas identified
- \*--Loss Assessment Report.--\*

File with other ECP documents according to 25-AS.

**8 Program Year**

**A FY**

The ECP program year is FY.

**\*--B Determining Program Year for AD-245's**

To determine the program year for a specific AD-245, see FY at the time ECP application was filed on AD-245.--\*

## 9 Forms and Supplementation

### A National Forms

STC's, COC's, and State and County Offices shall use nationally prescribed forms.

**Note:** Forms are available on the FFAS Employee Forms Online Intranet site at <http://intranet.fsa.usda.gov>.

### B State Forms

Forms developed by STC's must:

- meet requirements in 3-AS
- be approved by the following:
  - CEPD
  - MSD.

### \*--C Adding, Modifying, or Withdrawing Provisions

State Office issued handbook instructions shall **not** be less or more restrictive than the provisions of this handbook; however, State-specific amendments may be made that are consistent with ECP provisions. For permanent directives, the following guidelines **must** be followed:

- issue a permanent State Office directive **only** as a supplement to this handbook.

**Note:** Do **not** create a separate State handbook.

- do **not** modify national wording when adding supplemental information
- State Offices may supplement this handbook's instructions according to 1-AS.

**Note:** Periodically, the national ECP program manager may select State Office amendments for review.--\*

**\*--10 CCC-770 ECP-1 and CCC-770 ECP-2**

**A Using CCC-770 ECP-1 and CCC-770 ECP-2**

CCC-770 ECP-1 and CCC-770 ECP-2 shall be considered management tools to help address deficiencies identified by a review or spot check of whether policies or procedures are being followed before issuing ECP approvals and/or payments.--\*

**B CCC-770 ECP-1 and CCC-770 ECP-2 Information**

It is not the intent of CCC-770 ECP-1 or CCC-770 ECP-2 to supersede or replace procedure. County Offices should:

- use CCC-770 ECP-1 and CCC-770 ECP-2 as reminders of the most frequently “erred” determinations and certifications
- recognize that the questions asked on CCC-770 ECP-1 and CCC-770 ECP-2 are very general in nature.

**Note:** It would not be practical for CCC-770 ECP-1 or CCC-770 ECP-2 to address every conceivable situation as it pertains to eligibility.

**\*--C Completing CCC-770 ECP-1 and CCC-770 ECP-2**

SED, STC or designees, DD, or CED shall determine:

- when County Offices are to complete CCC-770 ECP-1 and CCC-770 ECP-2, if apparent internal control deficiencies are found during CED, STC representative, or DD reviews
- whether the applicable CCC-770 ECP-1 and CCC-770 ECP-2 is necessary to avoid findings indicated by COR reviews
- when additional internal controls are necessary to reduce improper payments.

**Note:** CCC-770 ECP-1 and CCC-770 ECP-2 developed by the National Office are the--\* **only** authorized checklists for ECP. County Offices shall **not** use State or locally generated checklists for ECP.

\* \* \*

**11-19 (Reserved)**



**Section 2 STC and State Office Responsibilities**

**20 STC Responsibilities**

**A Program Administration**

STC is responsible for administering ECP within the State according to national policy.

**B STC Action**

Within the authorities and limitations in the national program, STC's shall:

- direct the development and administration of ECP
- document STC actions in minutes or other written record according to 16-AO.

STC may delegate the authority to sign documents showing action taken by STC.

## 21 SED Responsibilities

### A Program Oversight

SED shall:

- implement ECP as directed by STC and within national policy
  - supervise and monitor operations to ensure that:
    - ECP policies are followed
    - operations are uniform among County Offices
  - provide training as necessary for COC's, CED's, program technicians, and others so County Offices have a clear understanding of ECP policies and responsibilities
  - \*--ensure information submitted supports requests for funds
  - establish a State plan to monitor ECP that shall provide:
    - for the STC representative to review a sampling of AD-245's filed in each County Office as required in subparagraph 175 A--\*
    - the sampling and monitoring needed for ECP implementation and assistance

**Note:** Establishing the State plan shall not delay implementation and assistance.
  - in case of drought, monitor designated counties to determine whether drought conditions still exist and if the program is still needed to solve drought-related problems.
- Note:** If it is determined that ECP is no longer needed, provide COC guidelines to:
- discontinue issuing approvals
  - determine which outstanding approvals remain eligible.

## 21 SED Responsibilities (Continued)

**\*--B Contacting ECP-PM Before Implementation**

For all natural disasters except droughts, SED or designee shall consult ECP-PM by telephone or e-mail before concurring with the County Office's request to implement or--\* expand ECP.

SED shall:

- not delay a County Office's request for several days in anticipation of receiving other County Offices' requests
- notify County Offices of concurrence or nonconcurrence by telephone and follow up in writing.

**\*--C Required Information**

An SED's consultation should include all pertinent information about the disaster including an estimate of the amount of funds needed to begin implementing the program. SED shall FAX to CEPD or e-mail to ECP-PM:

- the date and type of disaster
- names of the counties or parts of counties involved
- map of affected area, including county names and boundaries--\*
- a request for an allocation of funds, if needed

**Notes:** The amount shall be based on COC's assessment of **eligible** damage considering the practices to be used.

Do **not** commingle ECP funds from other ongoing or previous ECP-designated disasters.

- the practices required to solve the problems
- a statement affirming that the disaster caused severe damage to farmland that is not subject to frequent damage (subparagraph 111 B).

**21 SED Responsibilities (Continued)**

**\*--D SED and STC Exception**

SED or STC may implement the program, except for droughts, if conditions require--\* immediate action and contact with ECP-PM is impossible. Document actions taken.

**E ECP-PM Approval Required**

ECP-PM's approval is required for all drought-disaster designations.

For severe droughts, SED shall provide the following information to ECP-PM in addition to the information required by subparagraph 35 E:

- all available data COC has assembled on the severity of drought conditions
- STC recommendation.

**F Allocation of Funds**

SED shall allocate funds to County Offices.

**22-29 (Reserved)**

## 34 Delegations of Authority

### A COC Delegated Authorities

COC authorities may be delegated to CED or an individual COC member.

Authorities that may be delegated include determining the following:

- the amount COC is willing to approve
- the sufficiency of signatures and authority of persons signing in a representative capacity
- the value of:
  - ineligible contributions
  - ~~contributions~~ of each person or legal entity who contributed to performing a ~~practice~~
- whether completing a component is a reasonable attainment toward completing the practice and prescribing the time for practice completion
- whether a practice not meeting all of the specifications adequately solves the problem
- whether an attempt was made to meet the specifications
- whether the performance justifies cost sharing on the extent performed
- approval of:
  - ~~applications for C/S~~
  - changes in approved extent and C/S
  - increases in the approved extent, C/S, or both, if supported by AD-862 from the technical agency showing the need
  - extensions of time to complete and report performance of a practice
  - whether ECP should be requested.

**34 Delegations of Authority (Continued)**

**B Limitations on Delegations**

COC shall establish and specify determinations described in subparagraph A, if any, that will be delegated to CED, recorded in COC minutes, and filed according to 25-AS.

- Do not delegate authority to CED to act on matters involving the farms of STC or COC members or CED's own farm.
- CED shall carry out responsibilities according to COC delegations.
- COC shall review delegated authorities annually to ensure that they are being followed.

**C Authorities Not to Delegate**

The following COC authorities shall not be delegated:

- approving P-A's
- approving limited resource designations
- hearing appeals for reconsideration and making decisions on appeals
- determining whether there is a violation of ECP provisions
- determining priorities for ECP requests.

**D Voting Limitation**

A COC member shall abstain from voting on any determination about a farm in which that member or an immediate family member has a personal interest.

## 35 COC Action When Disaster Occurs

### A Immediate Assessment of Damages

For all disasters except severe drought, immediately after a disaster occurs, COC shall make an overall assessment of the damage to ensure that the damage meets the minimum requirements. COC or CED shall consult with STC or SED to obtain concurrence before approving the disaster damage for C/S assistance (see paragraph 111 and Exhibit 4).

Concurrence may be by telephone and shall be based on the following:

- description of the disaster
- an estimate of funds needed
- a review of the policy about small payments in Exhibit 4
- areas of county affected
- practices needed
- policy about frequent damage in paragraph 111.

**Note:** COC or designee must follow telephone concurrence with written documentation to the State Office. The State Office shall review and forward documentation to \*--ECP-PM. The documentation shall include, at the minimum, the following:

- a copy of the Loss Assessment Report (see EOH)--\*
- a description of the disaster as it affects agricultural land in the county
- the practices requested

**Note:** Practice EC7, Other Emergency Conservation Measures, must have ECP-PM approval before implementation. Requests to implement EC7 must include justification and a proposed practice writeup.

- the number of farms expected to receive C/S assistance
- the amount of funds requested from the national reserve to administer the program
- that ECP has been documented as 1 of the types of USDA assistance required

**35 COC Action When Disaster Occurs (Continued)****A Immediate Assessment of Damages (Continued)**

- a copy of the County Emergency Board's Damage Assessment Report, if applicable
- the following frequent damage statement that is applicable to land suffering damage in the county for which ECP C/S is being requested:

“The damaged land on which cost shares will be approved is not subject to frequent damage from natural disaster and has not been damaged by the same type of natural disaster 3 or more times in the last 10 years, including the current disaster.”

- any other pertinent information supporting request for funds, including documentation of any information supplied earlier by telephone or e-mail.--\*

**B Requirements for Damaged Farmland**

If new conservation problems have been created because of a disaster, the resulting damage to farmland shall:

- be unusual in character and, except for wind erosion, must not be the type of damage that would recur frequently in the same area
- materially affect the productive capability of the land or water resource
- impair or endanger the land if not treated
- be so costly to rehabilitate that Federal assistance is required to return the land to productive agricultural use.

**35 COC Action When Disaster Occurs (Continued)****C Primary Consideration**

The type and extent of individual farm damage shall be the primary consideration for ECP eligibility. The number of farms affected is not the primary criterion for offering assistance. The program may be implemented on a single farm if COC determines it is justified and STC concurs.

**D Definition of Severe Drought**

A severe drought condition exists when available livestock water and irrigation water for orchards and vineyards have been reduced below normal and survival is unlikely without additional water.

**E COC Report of Drought Conditions**

For a severe drought, COC shall provide STC with a complete written report of current conditions.

STC shall determine whether conditions are severe enough to warrant a recommendation for program implementation to ECP-PM.

The report forwarded to ECP-PM for each county shall include the following:

- actual rainfall history for each of the 3 years preceding the current year
- amount of precipitation by month for the last 12 consecutive months including last full month

**Notes:** Obtain these statistics from National Oceanic and Atmospheric Administration, National Weather Service records, the U. S. Drought Monitor, or from the best available source within each respective county and document the source.

Unless described otherwise, precipitation is assumed countywide, evenly distributed, and not damaging.

**35 COC Action When Disaster Occurs (Continued)**

**E COC Report of Drought Conditions (Continued)**

- percent of normal water for current underground and surface water supply, if applicable
- copy of County Emergency Board’s Damage Assessment Report, if applicable (see EOH)
- \*--copy of Loss Assessment Report (see EOH)--\*
- any other pertinent information available supporting the request for program designation.

**F Other Available Funds**

Before requesting ECP funds, COC shall use, to the extent possible, other available program funds instead of ECP.

For example, EQIP funds are used instead of ECP funds, these funds must be used only to make repairs or install practices that are eligible under EQIP.

**G Exceptions**

Except for a severe drought, COC may implement ECP after receiving STC’s concurrence.

**H Severe Drought Designation**

For severe drought, ECP-PM will determine the emergency ECP designation in each county.

**I Coordinating ECP With Other Agencies**

Coordinate ECP activities with disaster assistance activity of other agencies, including FEMA, if applicable.

**36-41 (Reserved)**

## Section 4 C/S Policies

**42 Maximum C/S Limitation****\*--A Maximum C/S Payment Limitation**

In no case shall the payment exceed 75 percent of the producer's out-of-pocket cost to perform the practice, unless the producer is a limited resource producer.--\*

**B Limitation Based on Land Value**

C/S assistance to rehabilitate damaged farmland shall not be more than 50 percent of the agricultural market value of the affected land as determined by COC unless waived by ECP-PM.

**Note:** In computing the value of the farmland, COC may use the countywide dryland cropland value submitted annually or the land value survey questionnaire for the previous 3 years.

**C Establishment of C/S Levels**

\*--STC or COC shall establish C/S levels for each practice or component. C/S levels shall--\* not exceed 75 percent of the eligible cost of restoring the loss.

**Note:** See subparagraph 5 A for maximum payment limitation.

**D Example of C/S Computation**

If total eligible costs of all practices caused by the disaster are \$210,000, then 75 percent times \$210,000 equals \$157,500 in C/S.



**43 C/S Levels**

**A National Policy on C/S Levels**

C/S levels up to 75 percent of the cost are authorized for ECP practices.

**B National Policy on Limited Resource C/S Levels**

C/S levels up to 90 percent of the cost of ECP practices for limited resource producers are authorized if approved by COC.

**Note:** See Exhibit 2 for the definition of a limited resource producer.

**C Setting County C/S Levels**

The C/S level for any practice may be set at any level within national and State policies. C/S levels shall be set based on the minimum incentive needed to encourage producer participation and solve the problem.

\* \* \*

**44 (Withdrawn--Amend. 3)**

## 45 C/S Levels With Limitations

### A Documenting C/S Levels With Limitations

\*--C/S levels may be established for practices or components with a maximum limitation.--\*

The limitation is based on the average cost of performing the unit of measure. C/S levels and maximum limitations shall be set based on the minimum incentive needed to encourage producer participation and solve the conservation problem.

Document C/S levels with a limitation as follows.

“\_\_\_\_\_ percent of the actual cost, not to exceed \$\_\_\_\_\_ per unit (acre, pounds, feet, etc.)”

**Example:** 75 percent of the actual cost, not to exceed \$60.00 per acre.

### B Supporting Data for C/S Levels with Limitations

The maximum limitation shall be based on documented average costs.

COC shall base maximum limitation on current cost data, such as, data from:

- NASS
- applications of payment
- quotations
- dealers
- contractors
- \*--NIFA--\*
- NRCS.

Data used to determine maximum limitation shall be maintained with the county eligibility status list.

**\*--46 Items Eligible and Ineligible for C/S****A Items Eligible for C/S --\***

Items eligible for C/S assistance include the cost of any direct and significant factors necessary to perform the practice, such as:

- new or used materials
- services
- labor
- sales tax.

**Note:** If used materials are approved by COC, it must be documented in COC minutes.

**\*--B Items Ineligible for C/S--\***

The costs of the following items are ineligible for C/S:

- mowing pastures
- measures to control insects or rodents
- measures to treat plant diseases or nematodes
- engineering charges \* \* \* or permit fees
- \*--consultant's fees, unless specifically permitted in the practice writeup--\*
- chopping or shredding residues from crops for insect control
- providing land
- \*--right to use land or water--\*
- power sources

**\*--Note:** Solar- and wind-based power sources may be eligible if they are determined to be the least costly alternative in providing electric fence or water for livestock.--\*

**\*--46 Items Eligible and Ineligible for C/S (Continued)--\***

**B Items Ineligible for C/S (Continued)**

- meeting supplemental requirements, such as abstaining from harvesting
- producer's own transportation costs
- weed control measures
- loss of or reduction in revenue because of the disaster
- rent or other costs of using land
- cost of pumps and pumping accessories, except for permanently installed submersible pumps in wells during drought emergencies
- dry wells
- donated material.

**47 Eligible Costs****A Safety Requirement**

Cost sharing shall be limited to restoring structures and other installations to the immediate predisaster condition, except if:

- restoring a structure to the immediate predisaster conditions would make the structure a safety hazard to human habitation downstream as certified by technical service provider

**Note:** In this case, the structure shall be restored to meet NRCS standards and cost sharing may be approved for the entire project.

- the cost would not be greater to restore a structure or installation to current NRCS standards rather than to the immediate predisaster condition.

**B Restoring to Predisaster Conditions**

Structures that are restored to the immediate predisaster conditions but do not meet current NRCS technical standards and specifications may be eligible for C/S. However, COC's are strongly encouraged to require conservation structures be restored to current NRCS technical standards and specifications.

ECP participants must pay the additional cost incurred to improve land and structures beyond the immediate predisaster condition.

**47 Eligible Costs (Continued)**

**C Limitations on Eligible Expenses**

If a producer is eligible for ECP assistance, cost sharing may be granted for all reasonable expenses incurred.

- Reimbursement for expenses for eligible personal equipment and personal labor shall be less than that charged by contractors who are entitled to make a profit for their efforts.
- Eligible expenses for personal labor shall be limited to personal labor not normally required in the operation of the farm or ranch, as determined by COC.
- Eligible expenses for personal equipment shall be limited to costs incurred beyond the normal operation of the farm or ranch.

**D Assignments**

Payments earned may be assigned according to 63-FI.

**48, 49 (Withdrawn--Amend. 3)**

**50 Arbitrary Holddowns**

**\*--A STC Responsibilities**

STC shall ensure that arbitrary holddowns are **not** used when:

- establishing C/S rates and limitations
- approving practices.

**B COC Responsibilities**

COC shall ensure that arbitrary holddowns are **not** used when:

- establishing C/S rates and limitations
- approving practices.--\*



**51 Fencing Policy**

**A Disasters Involving Fencing**

COC shall establish a maximum C/S rate per foot for restoring fences.

**B C/S Payments Shall Not Exceed Established Rates**

Regardless of the kind of fence installed, C/S shall not be based on costs exceeding fence materials provided in subparagraphs C and D.

**C Fencing Materials**

For barbed wire, high tensile wire, woven wire, and heavy-duty fences:

- posts shall be placed no closer than 12 feet apart and made of:
  - metal
  - treated wood
  - other material meeting NRCS technical standards and specifications
- labor rate shall be the prevailing rate in the county
- wire fences must consist of no more than 5 strands of wire that is no heavier than 11 gauge.

Woven wire fences shall be:

- not more than 4 feet in height
- no heavier than 10 gauge
- not to exceed 2 strands at the top and 1 strand at the bottom.

**D Boundary Fences**

In a Presidential designated disaster, FEMA has overall responsibility; therefore, boundary fences may be restored. If the approved disaster is not under FEMA jurisdiction, STC may prohibit cost sharing for boundary fences.

**51 Fencing Policy (Continued)**

**E Fencing Limitations**

Cost sharing shall be limited to restoring or repairing fences damaged by natural disaster.

Fences must be used for agricultural purposes. Ornamental fences are not eligible for assistance.

**Note:** COC shall consider the following before making approvals:

- age of fence at time of disaster
- if fence was used for purpose of excluding or enclosing livestock
- type of fence existing before disaster
- extent of damage of fence.

**F Fencing of Public Land**

Fencing of public land is eligible only if:

\* \* \*

- it will directly benefit privately owned land
- costs will be borne by the eligible participant
- participant has written evidence of right to use the land and maintain the fencing.

51 Fencing Policy (Continued)

G Adjusting for Age of Fencing

COC's shall adjust cost sharing for fencing based on the age of the fence.

<b>IF the age of the fence at time of disaster is...</b>	<b>THEN the allowable cost share percentage is...</b>
0 to 5 years	100 percent.
6 to 10 years	75 percent.
11 to 30 years	60 percent.
over 30 years	0 percent if all components are over 30 years old.

If some of a fence's components have been replaced since the fence was erected and the average of the components is less than 30 years, then the allowable cost share percentage determined by COC is not to exceed 60 percent.

**Examples:** Fence was 6 years old at time of disaster. The total eligible cost of restoration \*--is \$50,000. C/S computation is  $50,000 \times .75 \times .75 = \$28,125$  cost shares.--\*

Fence has been in place over 30 years, but the average age of all of fence components is 25 years. Total eligible cost is \$50,000. C/S computation is  $50,000 \times .75 \times .60 = \$22,500$  cost shares.

## 52 Easements, Permits, Rights-of-Way, and Water Rights

### \*--A Persons and/or Legal Entities Responsible for Obtaining Easements and Permits

Persons and/or legal entities wanting to perform practices on land they do not own or to--\* install practices that require State or Federal permits are responsible for obtaining the easements, permits, rights-of-way, water rights, or other permission necessary to perform and maintain practices for the practice lifespan.

### B Approving Cost Sharing

COC shall:

- not pay cost sharing if necessary easements, permits, or other necessary permission has not been obtained by the participant
- indicate on AD-245, “Remarks” section whether necessary permission has been obtained
- confer with responsible technical agency to ensure that necessary easements, permits, or other necessary permission has been obtained by the participant.

### C Verifying Permission Has Been Obtained

The permission from the authority must be in writing, and a copy must be provided to the County Office before paying cost shares for the practice.

**Note:** NRCS policy may be more restrictive in some States.

### D Producer’s Responsibility for Losses

\*--The person or legal entity receiving C/S assistance is responsible to FSA for any losses sustained by the Federal Government if the person or legal entity:--\*

- infringes on the rights of others
- does not comply with applicable laws or regulations.

**Section 6 Transfer for Technical Services****\*--76 MOA****A Development**

SED and NRCS State Conservationists shall develop MOA that includes the terms and conditions for the reimbursement to NRCS for technical services under ECP. MOA shall include the terms and conditions shown in subparagraph C.

**Notes:** Review and update MOA as needed if modifications comply with national policy and procedure.

Any other MOA requires the prior approval of ECP-PM, FSA National Environmental Compliance Manager and FSA Federal Preservation Officer.

**B Additional Terms and Conditions**

Additional terms and conditions may be included that are mutually agreed upon if these terms and conditions comply with national policy and procedure. Modifications that include the following terms and conditions may be implemented without National Office approval:

- ECP practices for which NRCS will provide technical services
- in addition to NRCS's Financial Management, FNM-15, the format of any other billing information for which NRCS will provide statement of actual costs incurred in providing technical services
- IV(A)(1) may be modified to ready, "as requested by..." rather than "as provided by..."

Any other terms or conditions must be approved by ECP-PM, FSA National Environmental Compliance Manager, and FSA Federal Preservation Officer.--\*

\*--76 MOA (Continued)

**C MOA Between SED and NRCS State Conservationists**

The following is an example of an MOA between SED and NRCS State Conservationists.

**Memorandum of Agreement (MOA)**

**Between**

**Natural Resources Conservation Service (NRCS), \_\_\_\_\_ State Office**

**And**

**Farm Service Agency (FSA), \_\_\_\_\_ State Office**

**For Provision of the Technical Assistance for the Emergency Conservation Program (ECP)**

**Through September 30, XXXX**

**I. Purpose**

The purpose of this MOA is to provide for the implementation, cooperation, expectations, and responsibilities between NRCS and FSA in carrying out technical assistance for the ECP.

**II. General Provisions**

Technical assistance is needed for the implementation of ECP. FSA has determined that NRCS has personnel with expertise who can provide technical assistance needed for the implementation of the ECP.

**III. Authority**

The authorities for FSA and NRCS to enter into this agreement and NRCS to provide technical assistance for ECP are the Economy Act (31 U.S.C. § 1535), sections 401-405 of the Agricultural Credit Act of 1978 (16 U.S.C. § 2201-2205), the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a-590g), and the regulations at 7 CFR parts 610 and 701. Other authorities may also apply.

--\*

**C MOA Between SED and NRCS State Conservationists (Continued)****IV. Responsibilities**

NRCS and FSA agree, subject to the availability of funds, that:

A. NRCS will:

1. As directed by FSA, provide technical assistance both directly or through NRCS-approved Technical Service Providers (TSP) and assure all technical work done will meet NRCS technical requirements, including the National Planning Procedures Handbook for conservation planning and the Field Office Technical Guide (FOTG) requirements for conservation practices and systems.
2. Submit to the appropriate FSA State Office a statement of actual costs incurred in providing the technical services during the fiscal year, using NRCS-FNM-15. List AD-672 agreement number on NRCS-FNM-15.
3. Adhere to FSA environmental and cultural resource policy in FSA's Environmental Quality Programs Handbook 1-EQ regarding compliance with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA), Clean Water Act, and all other applicable Federal, State, Tribal, and local environmental laws, regulations, and Executive Orders. NRCS will be responsible for completing, NRCS form CPA-052, or State modified version of the CPA-052, to document the potential environmental impacts associated with the proposed ECP contract and associated conservation practices and for recommending further action by FSA to complete their regulatory responsibilities.
4. Supply FSA with available information supporting the recommendations and findings on the NRCS CPA-052, Environmental Evaluation Worksheet or State modified version. FSA will complete required consultation before signing the NRCS CPA-052 form or State modified form and carry out such consultation with the SHPO and Tribal governments or their THPOs. This will ensure FSA will make an informed decision regarding the effects if its proposed action and any alternatives considered. NRCS field staff will provide information extracted from existing and available cultural resources review forms that are in NRCS files, relevant endangered species and/or critical habitat lists, and all other best available information that is necessary for FSA to make an informed decision. NRCS shall provide FSA either copies of the cultural resources data forms

--\*

**C MOA Between SED and NRCS State Conservationists (Continued)**

from NRCS files or a list of documentary records, files, and other information resources accessed and checked for FSA. If necessary, NRCS will recommend additional records or resources that FSA may want to check prior to entering into SHPO or Tribal consultation or making final NHPA Section 106 decisions. These data shall be provided on the CPA-052 or State modified version.

- B. FSA has overall program authority and responsibility and will:
1. Administer all ECP contracts, including compliance determinations.
  2. Hold in FSA State Office reserve, from ECP funds allocation to the State, an amount adequate but not greater than 10 percent of the funds allocated to the State, to reimburse NRCS for technical assistance.
  3. Serve as the lead agency for purposes of complying with the provisions of the NEPA, NHPA, ESA, and other applicable laws, Executive Orders, and regulations as provided for in FSA's Environmental Quality Programs Handbook 1-EQ and 7 CFR part 799.
  4. Complete all consultations with the State Historic Preservation Officer, Tribal Historic Preservation Officer, Tribal governments, as required of the lead agency, and all findings of historic property National Register of Historic Places eligibility and effects to these properties, as required by the Advisory Council on Historic Preservation (ACHP) regulations at 36 CFR Part 800. FSA will make the final determination of finding of effects in regards to the potential impacts to the environment, determinations of eligibility and effect and decisions on appropriate treatments regarding cultural resources related to the proposed ECP contract and associated conservation practices according to regulations at 36 CFR part 800.2(a)(2).
  5. Complete all consultations with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, as required by the lead agency, including the development of Biological Assessments or other documentation as deemed appropriate in order to make and support the determination of finding of effects in regards to the potential impacts to the environment, and effect and decisions on appropriate treatments regarding at-risk species and other natural resource concerns related to the proposed ECP contract and associated conservation practices.

--\*

C MOA Between SED and NRCS State Conservationists (Continued)

C. NRCS and FSA agree:					
1.	To fully comply with the information gathering provisions of section 1619 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. 8791(b), section 1244(b) of the Food Security Act of 1985, 16 U.S.C. 3844(b), the Privacy Act, the Freedom of Information Act, and related acts concerning privacy and the dissemination of records.				
2.	To enter into a state-level reimbursable agreement (Form AD-672) at the beginning of each fiscal year based on the life of this MOA and any amendments hereto, for ECP technical assistance.				
3.	To amend Form AD-672, as deemed necessary by FSA, based upon current funds held in reserve for technical assistance by the FSA State Office.				
4.	To cooperate at all levels to ensure consistent implementation of ECP policies and procedures. When differences occur, the parties will provide information and recommendations to the next level (i.e. county offices would forward information and recommendations to the State offices, State offices would forward information and recommendations to NHQ). The Chief, NRCS, and Administrator, FSA, have final authority for ensuring consistent implementation of ECP policies and procedures.				
5.	That this MOA may be terminated at any time by one party providing 30 days written notice. Should this MOA be terminated, billing will be submitted for services rendered.				
6.	This MOA will run for a period of 5 years from date of execution.				
7.	This MOA may only be modified by amendment duly executed by the _____ State Executive Director of FSA and the _____ State Conservationist of NRCS.				
8.	All funding commitments in this MOA are subject to the availability of funds. In the event that adequate funding is not made available, FSA and NRCS may terminate their responsibilities under this agreement as agreed to under the termination clause of this agreement.				
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">NATURAL RESOURCES CONSERVATION SERVICE</td> <td style="width: 50%; text-align: center;">FARM SERVICE AGENCY</td> </tr> <tr> <td style="text-align: center;">_____ [Name of State Conservationist]      Date _____ State Conservationist, NRCS</td> <td style="text-align: center;">_____ [Name of State Executive Director]      Date _____ State Executive Director, FSA</td> </tr> </table>		NATURAL RESOURCES CONSERVATION SERVICE	FARM SERVICE AGENCY	_____ [Name of State Conservationist]      Date _____ State Conservationist, NRCS	_____ [Name of State Executive Director]      Date _____ State Executive Director, FSA
NATURAL RESOURCES CONSERVATION SERVICE	FARM SERVICE AGENCY				
_____ [Name of State Conservationist]      Date _____ State Conservationist, NRCS	_____ [Name of State Executive Director]      Date _____ State Executive Director, FSA				

--\*

**77 Payment for Technical Services****A Actual Costs**

The NRCS State Office shall bill the FSA State Office for the actual cost of ECP services performed. These billings may not exceed 10 percent of the amount of funds allocated to counties.

**Note:** See 1-FI, Exhibit 5, for payment code to be used for technical service payment.

**B Rounding Payments**

FSA State Offices shall issue payment for technical services in whole dollars only. Standard rounding principles apply.

**\*--C AD-672's Between SED and NRCS State Conservationist**

SED's and NRCS State Conservationists for each State shall develop and sign AD-672 at the beginning of each FY, if ECP funds are currently allocated to the State and ECP technical services are needed from NRCS. If AD-672 is not developed and signed at the beginning of FY, AD-672 shall be developed immediately upon receiving ECP allocations needing NRCS technical services. AD-672 shall include:

- entries required in subparagraph D
- "Attachment A", summary of funds available and billing instructions
- "Attachment B", copy of MOA (paragraph 76).

An example AD-672 is provided in subparagraph E.--\*

## 77 Payment for Technical Services (Continued)

**\*--D AD-672 Required Entries**

The following table provides entries for AD-672 between FSA and NRCS for ECP technical assistance.

Item	Entry
1	Enter the "Agreement Number", users can enter up to 25 alpha/numeric characters; the first 13 positions <b>must</b> be: <ul style="list-style-type: none"> <li>• 1, 2: Agency Code "FA"</li> <li>• 3, 4: Fund Code "30"</li> <li>• 5, 6: 2-digit fiscal year</li> <li>• 7 through 13: ECP appropriations symbol "<b>12x3316</b>".</li> </ul>
2	Enter the 4-digit fiscal year.
3	Estimated amount for reimbursement, not to exceed 10 percent of ECP allocations.
4	Enter "1" for the "Agency Billing Indicator".
5	Enter "5" for the "Transaction Code".
6	Enter "1" for the "Action Code".
7	Enter FSA State Office name and address.
8	Enter NRCS State Office name and address.
9	Enter " <b>See attachment A for summary of funds available and billing instructions and attachment B for MOA on technical assistance.</b> "
10	Enter " <b>See attachment B for state MOA and authorities.</b> "
11	The effective date (from) should be the first day of the current fiscal year or the current date and the agreement should continue through the last day of the current fiscal year or before.
12	Enter "2" for the Reimbursement Billing Frequency. Leave "Advance of Funds Type of Account" blank.
13	Enter " <b>12x3316 Emergency Conservation Program</b> " as the Appropriation Symbol and Title. Leave "Project", "Allotment", and "Workplan" numbers blank.
14	Entries in item 14 are <b>not</b> required.
15	Enter the amount from item 3 as the amount in item 15.
16-18	Leave blank.
19	Enter signature, signature date, and title of FSA SED and contact name and number.
20	Enter signature, signature date and title of NRCS State Conservationist and contact name and number.

--\*





78 Reimbursable Technical Services

A Phases of Reimbursable Technical Services

Technical assistance to be provided in servicing assigned practices may involve all of the following phases of implementing a practice:

- determining whether the practice is needed and feasible
- selecting a site

**Note:** Determine measures needed and any required layout and design of the practice when selecting a site.

- supervising installation of a practice, if needed, to ensure that practice conforms with specifications
- inspecting practices to determine whether specifications have been met and the extent performed.

**\*--Section 7 Person, Legal Entity, and Land Eligibility**

**91 Eligible and Ineligible Persons and Legal Entities**

**A Person and Legal Entity Eligibility**

See 4-PL for eligibility determinations for persons and legal entities.--\*

**B Individual Eligibility Determinations**

Determine eligibility for ECP assistance on an individual basis considering the type and extent of damage. See Exhibit 4.

COC shall determine:

- which cases are truly emergency situations
- whether the damage is of sufficient magnitude that it would be too costly for the producer to rehabilitate without Federal assistance.

**C Assistance Not Needed**

Do not provide assistance if the applicant clearly has adequate financial resources and COC determines that the applicant can repair the damage without assistance and without causing a financial hardship. See Exhibit 4.

**D Re-Evaluation**

If drought conditions change, re-evaluate the applicant's eligibility.

**E Organizations With Taxing or Assessment Authority**

Irrigation, drainage, and other district organizations with taxing or assessment authority for conservation purposes are not eligible to receive cost sharing.

**\*--91 Eligible and Ineligible Persons and Legal Entities (Continued)--\***

**F Assistance in Organized Districts**

Assistance may be provided to participants individually or in pooling agreements in organized districts, such as irrigation districts, unless the restoration of the damage is the responsibility of the irrigation district.

- Under a pooling agreement, participation must be voluntary and costs must be paid by the participant; COC shall:
  - review the conditions under which the pooling agreement is made to ensure that participation is voluntary
  - submit pooling agreement and its recommendation to STC for approval.
- STC shall act on COC's recommendation for pooling agreements located within an irrigation district with taxing and assessment authority.

**\*--92 Determining Eligible and Ineligible Persons and Legal Entities--\***

**A Determining Eligibility**

By law, ECP eligibility is limited to agricultural producers. Determine ECP eligibility according to the following.

<b>IF an applicant is a...</b>	<b>AND...</b>	<b>THEN...</b>
farmer or rancher who has an interest in the farm and is either: <ul style="list-style-type: none"> <li>• an individual</li> <li>• a partnership member</li> <li>• an association</li> <li>• a corporation</li> <li>• an estate</li> <li>• a trust</li> <li>• a business enterprise</li> <li>• a legal entity</li> </ul> <b>Note:</b> Foreign nationals are eligible.	is an agricultural producer who contributes part of the practice cost	the applicant is eligible for ECP benefits.
<ul style="list-style-type: none"> <li>• Federal agency</li> <li>• State</li> <li>• a political subdivision of a State</li> <li>• State agency</li> <li>• district with taxing authority</li> </ul>		it is ineligible for ECP benefits.
*--minor		the applicant is only eligible if he or she is legally responsible and independently participating in the operation of a farm as an eligible person or legal entity (see 1-CM and 4-PL).--*

**\*--92 Determining Eligible and Ineligible Persons and Legal Entities (Continued) --\***

**B Agricultural Producer**

COC shall use the following to determine whether the farmer or rancher is an agricultural producer.

<b>IF the producer is...</b>	<b>AND...</b>	<b>THEN the producer is...</b>
an owner, landlord, tenant, or sharecropper of a farm or ranch	the farm or ranch is used to produce the following commercially: <ul style="list-style-type: none"> <li>• grains</li> <li>• row crops</li> <li>• seed crops</li> <li>• vegetables</li> <li>• hay</li> <li>• pasture</li> <li>• orchards</li> <li>• vineyards</li> <li>• flowers</li> <li>• bulbs</li> <li>• trees</li> <li>• field-grown ornaments</li> <li>• livestock</li> <li>• naval stores</li> <li>• other agricultural commodities</li> </ul>	an agricultural producer.

**93 Eligibility of Native Americans**

**A Native American Tribes**

A Native American tribe that owns eligible land is eligible for cost sharing.

**B Individual Native Americans on Tribal Lands**

Individual Native Americans are eligible \* \* \* if they qualify as tenants or sharecroppers on the land.

**C Individual Native Americans on Nontribal Lands**

Individual Native Americans on nontribal lands must meet the requirements in paragraph 92 to be eligible for C/S assistance.

**D Individuals With Grazing Rights on Tribal Land**

An individual holding written permission to graze Native American tribal land is eligible as a tenant to perform practices on the land if the lease or permit is issued by an appropriate official.

**94 Cooperative Grazing Associations and Districts**

**A Eligibility for C/S Assistance**

Cooperative grazing associations and districts that meet the requirements in paragraph 92 are eligible for C/S assistance.

**Note:** If the association or district is only a permittee or licensee with respect to the land, it is ineligible.

**B Individual Members**

Individual members of grazing associations or districts who have the legal right to graze land owned or leased by the association or district are considered tenants.

- They are eligible for cost sharing.
- C/S approvals shall not be issued to both the association or district and the individual members for practices to be performed on this land.

**95 Clubs and Organizations**

**A Eligibility**

Clubs and organizations such as 4-H clubs, Future Farmers of America, and scout troops, are eligible for C/S assistance if:

- \*--they qualify as an eligible person or legal entity according to paragraph 92
- the necessary ECP forms are signed by an adult who officially represents the organization.

**B Sports Clubs**

A sports club is eligible for C/S if it qualifies as an eligible person or legal entity--\* according to paragraph 92.

**96 (Withdrawn--Amend. 3)**



**97 Government Entities**

**A State Government and Agencies**

\*--A State government or any of its agencies is not an eligible person or legal entity for cost sharing.

**Note:** State-supported colleges or universities are ineligible as a person or legal entity under ECP.

**B Local Government Units**

County, city, or other local government units are ineligible for ECP purposes.

**C School Districts**

An independent school district is not an eligible person or legal entity for ECP purposes.--\*

## 98 Organized Districts

### A Policy

\*--Producers or groups that are eligible person or legal entity and are either members of--\* districts or have land in a district may voluntarily carry out eligible practices with their own funds and be eligible for C/S in districts or on facilities owned by districts.

C/S may **not** be approved where both:

- the district has the **legal obligation** to carry out the conservation improvement measures
- the district has the authority to levy taxes or assessments on its member's land, water rights, or other property, which if are not paid may become a lien.

### B Definition of District

District, for the purposes of this handbook, means organized districts, mutual water companies, and associations. For the purposes of this policy, districts shall include those formal and informal organizations that have all of the following characteristics:

- are formed under State law either:
  - to solve a mutual problem, such as, flood control
  - carry out a mutual purpose, such as, distribution of irrigation water
- have the authority to tax or assess individual members to carry out the proposed conservation measures
- can encumber the member's land, water rights, or other property through unpaid liens.

### C Eligibility of Organized Districts

The district, as a separate and distinct entity from its individual stockholders or members, is \*--eligible for cost sharing on farmland when it qualifies as an eligible person or legal entity--\* according to paragraph 92.

98 Organized Districts (Continued)

**D Eligibility of Individuals or Groups Within Organized Districts**

Within a district, any eligible producer may perform any eligible ECP practice in the approved county that is on or for the benefit of the producer's farmland.

\*--C/S must be paid to or on behalf of the individual eligible person or legal entity.--\*

Producers may hire a district or other vendor as the contractor to do the work for performing practices. Practices performed by contractors will be eligible, and the cost to the producers will be treated as their contributions.

**E ECP-PM Exceptions**

ECP-PM may grant exceptions on an individual basis with proper documentation.

Exceptions may be granted when State law or similar statute limits the amount that districts can tax or assess its members to the point that the districts cannot derive sufficient funds to carry out eligible conservation measures.

When an exception is granted, costs may be shared with individual members who voluntarily perform the measure using their own funds.

**F Contributions Made by Districts**

Contributions by a district to a project being voluntarily performed by eligible producers \*--using their own funds may be considered the contributions of an ineligible person or legal entity.--\*

98 Organized Districts (Continued)

**G Example of Ineligible Contributions Made by District**

The XYZ Ditch Company's (XYZ) charter provides that the company will supply available water to members and operate and maintain the ditch system.

- XYZ will annually assess members an amount set by XYZ and approved by XYZ's members holding a majority of the water shares.
- If the assessment is not paid in a timely manner, XYZ is obligated to sell the shares of the delinquent member.

**The company is not obligated to improve the system.**

The members of XYZ are eligible to form an ECP P-A for lining the company's earth ditches. If the company makes a contribution to the lining of the ditch, the contribution is that of an ineligible contributor.

\*--The company does not own or operate farmland; therefore, it does not qualify as an eligible person or legal entity according to paragraph 92.--\*

**99-109 (Reserved)**

## Section 8 Land Eligibility

## 110 Eligible Land

## A General Provisions

The provisions in this subparagraph apply to specific land, such as farm or tract, if known, for which an ECP application is filed or has been filed.

Land that is eligible under ECP, includes land:

- \*--physically located in a county or portion of a county that has been approved for ECP--\*
- normally used for farming or ranching operations
- privately owned and on which commercial aquaculture facilities are located
- protected by levees or dikes built to U.S. Army Corps of Engineers, NRCS, or similar standards, that were effectively functioning before the disaster regardless of type
- protected by permanent or temporary vegetative cover
- used for commercially producing orchards
- used for producing agricultural commodities
- where conservation structures are installed

**Example:** Examples of conservation structures include waterways, terraces, sediment basins, diversions, windbreaks, and so forth.

- devoted to container-grown nursery stock if the:
  - nursery grows stock commercially for wholesale purposes
  - nursery stock is grown on land in containers for at least 1 year
- in Christmas tree plantations

110 Eligible Land (Continued)

A General Provisions (Continued)

- expected to have annual agricultural production
- in field windbreaks or farm shelterbelts where the practice is to remove debris and correct damages caused by natural disaster
- on which facilities are located in irrigation canals or facilities that are located on the inside of the canal's banks as long as the canal is not a channel subject to flooding.

**Note:** Land that does not meet the definition of productive agricultural use may be eligible for debris removal if the debris is interfering with normal farming operations, such as field roads and land surrounding farmsteads.

See subparagraph B for examples of land eligible for ECP.

110 Eligible Land (Continued)

**B Eligible and Ineligible Land Examples**

The following are examples of damaged areas and structures that were determined eligible or ineligible for ECP.

Example	Damaged Area or Structure	Eligibility	Reason for Ineligibility
1	*--Debris from collapsed barn in the building's footprint or on farmstead.	No	Structures are primarily a capital investment and not agricultural land.
2	Debris from collapsed poultry house in the building's footprint or on farmstead.--*		
3	Damaged land around the farmstead.	No, except for removal of debris that interferes with normal farming operations.	Nonagricultural land.
4	Main irrigation line.	Yes	
5	Center pivot irrigation system.	No	Because of portable nature.
6	Recreational fishpond, including fence.	No	Primarily nonagricultural or not conservation use.
7	Commercial catfish pond, including fence.	Yes	
8	Grade stabilization structure, including protective fence.	Yes	
9	Woodland.	No	Nonagricultural land for purposes of ECP.
10	Land next to a stream, including perennial and intermittent streams.	No	Land subject to frequent damage, unless COC determines eligible according to paragraph 111.

110 Eligible Land (Continued)

B Eligible and Ineligible Land Examples (Continued)

Example	Damaged Area or Structure	Eligibility	Reason for Ineligibility
11	Debris on field road.	Yes, if it interferes with normal farming operations.	
12	Debris on farm lane.	*--Yes, if it interferes with normal farming operations.	Nonagricultural land (when it does not interfere with normal farming operations).--*
13	Damaged fence, involving livestock.	Yes  <b>Note:</b> Fence must have been damaged by an eligible natural disaster.	
14	Damaged waterway.	Yes	
15	Damaged terraces.	Yes	
16	Field not subject to frequent damage and not damaged 3 or more times in the last *--10 years by the same type of disaster.--*	Yes	
17	Damaged levee.	No	Nonagricultural land.
18	Damaged land between levee and a stream.	No	Land subject to frequent damage.

114 Government-Owned Land

A State-Owned Land

The following table shows eligibility policies for State-owned land.

<b>*--IF an eligible person or legal entity files AD-245 for State-owned land and the...</b>	<b>THEN the land is...</b>
<ul style="list-style-type: none"> <li>• person or legal entity will directly benefit from the practice--*</li> <li>• land will likely remain in agricultural production</li> </ul>	eligible for C/S.
practice is for the primary benefit of States or State agencies	ineligible for C/S.
person is prohibited by the lease from accepting cost sharing	

B Federally Owned Land

The following table shows eligibility policies on Federally owned land.

<b>*--IF an eligible person or legal entity files AD-245 on...</b>	<b>AND...</b>	<b>THEN the land is...</b>
Federally-owned farmland	all of the following apply: <ul style="list-style-type: none"> <li>• a private person or legal entity is farming the cropland</li> <li>• a person or legal entity has a lease that does not prohibit cost sharing</li> </ul> <p><b>Note:</b> Private persons or legal entities exclude Federal and State agencies.</p> <ul style="list-style-type: none"> <li>• the practice will primarily benefit nearby or adjacent privately owned farmland of person or legal entity performing the practice</li> <li>• a person or legal entity performing the practice has authorization from Federal agency to install and maintain the practice</li> <li>• the Federal land is the most practical location for the practice</li> </ul>	eligible.
	during a drought, the practice will primarily benefit the livestock owned or managed by the person or legal entity performing the--* practice	ineligible.
	the practices performed on these lands are for the benefit of land owned by a Federal agency <p><b>Note:</b> See paragraph 52 for policy on easements, right-of-way, etc.</p>	

**114 Government-Owned Land (Continued)**

**C Land Temporarily Owned by the United States**

Farmland temporarily owned by the United States or a corporation owned by the United States is eligible for practices performed by private persons or legal entities only if the conditions in subparagraph B are satisfied.

**115 (Withdrawn--Amend. 3)**

116 Land Under Other C/S Programs

A Determining Eligibility

Determine eligibility of land under other C/S programs according to the following.

IF...	AND...	THEN C/S may...
measures will accomplish the purpose of the practice	the practice will not be C/S under another Federal program	be authorized.
a component of a practice is C/S under another program	another component of the same or comparable practice is C/S under another program to treat the same problem on the same land	<b>not</b> be authorized.
practices are split on the same land	C/S would be split between different Federal programs	
participants have or will receive funding on the same acreage under: <ul style="list-style-type: none"> <li>• CRP</li> <li>• WRP</li> <li>• EWRP</li> </ul>		
participants have or will receive funding for the same or similar *--practices under EQIP, EWP, or other C/S programs--*		

117-129 (Reserved)



**\*--154 Filing AD-245's--\***

**A AD-245 Requirements**

Use only one AD-245 for each practice requested. However, multiple AD-245's can be requested for the same practice if the practice will be completed on different tracts, fields, or different farms.

**\*--Note:** The number of persons and legal entities involved in a practice has no bearing on--\* the number of AD-245's created for that practice.

**Example:** If a practice is requested for a joint venture of 3 persons:

- prepare only one AD-245 for the practice
- record the multiple producer data according to 1-CONSV.

**\*--B Assisting Applicants Filing AD-245's**

When an applicant requests a practice, advise producers of ECP eligibility requirements. Take the following action to assist applicants filing AD-245's.--\*

Step	Action
1	Help the applicant describe the disaster damage.
2	Determine whether there is an eligible solution.
3	Advise applicant of responsibility for complying with ECP requirements.
4	Obtain and record any information needed to determine practice priority and eligibility.
5	Advise the applicant of the minimum required lifespan for the practice.
6	Ensure that the applicant understands the meaning of the practice provision "after the calendar year of installation".
7	Have the applicant complete ACP-256 if the applicant requests consideration under the limited resource provisions.

**155 Obtaining Needed Information**

**A Obtaining Information From Producers**

\*--Obtain necessary information from the producer when request is filed on AD-245.--\*

**B Obtaining Information From Other Agencies**

All USDA representatives who visit farms should observe and report facts that affect eligibility to COC.

- At the State and county levels, all agencies working with ECP should consider the factors that affect practice eligibility and avoid duplication of effort.
- No agency having ECP responsibilities shall disregard information that raises a question on practice eligibility even if another agency is responsible for making the final determination.

**156-170 (Reserved)**

**\*--Section 2    Reviewing Cost-Share Requests**

**171    Onsite Inspection**

**A    Documenting Damage**

After obtaining concurrence to implement ECP, COC shall document each request including requests received when funds were not available to show that an FSA employee or--\* designee:

- made an individual onsite inspection as soon as possible to determine whether the damage met ECP requirements

**Note:** The law authorizing ECP requires that damage to the land, “...will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.”

- determined whether:
  - type and extent of damage qualified according to paragraph 35
  - the damage resulted from a type of disaster that does not occur frequently in the area as defined in paragraph 110
- \*--document damage with at least 1 dated photograph.

**B    Environmental Compliance**

For each request, FSA will complete an evaluation of the proposed practice using FSA-850 or CPA-052 (or NRCS State equivalent) to determine whether the proposed practice would have any adverse impacts to the human environment. The environmental evaluation will be completed before COC approval.

The guidance contained in 1-EQ will be followed when completing or reviewing an--\* environmental evaluation.

**171 Onsite Inspection (Continued)****\*--C Submitting Requests for Waivers of Onsite Inspections**

COC's or CED's shall sign and submit:

- waiver requests
- the required documentation for waiver requests to their respective State Office.

STC's or SED's shall sign and submit:

- waiver requests
- the required documentation for waiver requests to the ECP-PM only if the State Office deems that the required documentation supports a request for waiver.

**D Required Information for Requests for Waivers**

The following information is required for requests for waivers of onsite inspections:

- map of affected counties
- documentation of the extent and intensity of damage through maps or other data sources, including agricultural loss estimates
- based on the extent and intensity of damage, a defined boundary on a map for application of the waiver
- a description of accessibility to the sites, including any physical limitations to the site because of flooding, debris, or other impediments
- photographs of the area or adjacent areas to the site where the waiver is requested
- information about how the extent of damage or rehabilitation work will be determined after the fact, and a plan for sub-sampling applications or using GIS analysis before practice implementation that will provide a basis for evaluating needs in areas where the onsite inspection has been waived
- a description of potential for any immediate impacts to public health or safety.--\*

171 Onsite Inspection (Continued)

**\*--E Evaluating Requests for Waivers**

The requirement for onsite inspections will only be waived in dire circumstances where the ECP-PM evaluates that:

- damage:
  - is of a magnitude that severely limits access or use of farmland
  - is so pervasive that the need for practices can be adequately assessed through subsampling or using GIS analysis
  - requires immediate action to prevent significant adverse loss to agricultural operations
  - presents an immediate risk:
    - to public health or safety
    - to environmental resources.

**Note:** Workload issues alone are not sufficient justification for waiver of the onsite inspection provision.

**F Implementing Waivers of Onsite Inspections**

State and County Offices shall evaluate the amount of financial payment and the relative potential for inaccurate payment when determining whether or not to use an approved waiver for a particular application.--\*

## 172 Determining Eligibility

### A COC Determining Eligibility

When determining eligibility, COC shall determine whether:

- the applicant and the land are eligible
- the requested practice justifies the investment of funds
- the practice costs are beyond what the producer would accomplish with his or her own resources
- approval of cost sharing meets the objectives of ECP
- ~~the practice is not serving its conservation purpose, including water conservation directly related to agriculture, before the disaster, except for cases involving debris removal~~
- the land to be benefitted is and will continue to be used for agricultural production.

### ~~B~~ Ineligible Practices

The practice is ineligible if any of the following apply:

- the practice has been started before request for ECP assistance was filed on AD-245~~the practice was not serving its conservation purpose, including water conservation directly related to agriculture, before the disaster, except for cases involving debris removal~~
- the work is considered normal upkeep or maintenance
- the primary purpose of the practice is to bring new or additional land into agricultural production
- ~~the practice was not serving its conservation purpose, including water conservation directly related to agriculture, before the disaster, except for cases involving debris removal~~
- a water impoundment or improvement facility is primarily for household or recreational use
- any practice requested is primarily for the producer's convenience
- the practice will create a conservation or environmental hazard, such as, erosion or flood, to other land
- the practice was started before it was approved by COC.

**Notes:** See subparagraph 175 D for exceptions to this provision.

~~FSA-850 or CPA-052 (or NRCS State equivalent) must still be completed before COC determination of the practice approval.~~

**173 Using Priorities**

**\*--A Prioritizing All Requests**

All requests for ECP assistance filed on AD-245's shall be prioritized by COC before approval.

**B Prioritization Factors**

Prioritization factors that may be taken into account in setting priorities and approval--\* amounts include, but are **not** limited to, the following:

- safety, such as a \* \* \* dam that poses a threat to life or property
- type and degree of damage
- type of practices needed to address the problem
- availability of funds
- availability of technical assistance
- environmental concerns
- \* \* \*
- welfare of eligible livestock
- \*--status as limited resource producer.--\*

**174 (Withdrawn--Amend. 2)**



## 175 Approvals and Disapprovals

### \*--A Reviewing Requests

An STC representative shall review a sample of ECP requests filed on AD-245's **before** COC approval to ensure that AD-245's reviewed meet ECP requirements.

### B COC Action

COC shall:

- advise applicants in writing of action taken or to be taken on requests filed on AD-245's
- issue a practice approval only if **all** of the following are met:
  - requests filed on AD-245 is eligible for cost sharing--\*
  - the damage was the result of a disaster not occurring frequently in the area
  - the producer filed AD-245 before starting the practice
  - funds are available
  - an onsite inspection has been completed by an FSA or other authorized agency  
\*--employee, such as NRCS or NIFA, with approval from ECP-PM--\*
  - the practice was started after the agency responsible for technical assistance has made any necessary technical determinations
- \*--complete CCC-770 ECP-1 (Exhibit 11) before approving AD-245 only if deemed necessary by COC, SED, or STC representative
- complete FSA-850 (Exhibit 11.5) or CPA-052 (or NRCS State equivalent) before approving AD-245.--\*

COC in the headquarters county shall continue to use the State and its county code to identify all AD-245's and other documentation and statistical reporting requirements related to implementing ECP on the eligible farmland in a designated ECP county.

## 175 Approvals and Disapprovals (Continued)

\* \* \*

**C Waiver When Producer Starts Practice Before Approval**

In certain instances, producers after filing requests on AD-245, need to start the ECP practice before it can be approved. COC may, with STC concurrence, waive the prior approval rule on a case-by-case basis, if justified. Justification may include availability of contractor, or steps to prevent further losses. See subparagraph E.

For ECP purposes, a practice is considered started when a producer first:

- purchases material for the practice
- signs a contract
- physically starts work on the project.

**D Granting Relief for Starting a Practice Before Filing Request on AD-245**

COC, with STC or its representative concurrence, may grant relief on a case-by-case basis \*--when a producer does not submit AD-245 before starting restoration measures, if all of the following apply:

- the ECP-designated disaster created a situation that required the producer to take--\* immediate steps to prevent further losses

**Examples:** Examples of these situations are emergency repair of:

- fences to contain livestock
- a dam that poses an immediate threat to life and property.

- \*--requests filed on AD-245 between the date of the disaster and the end of the sign-up--\* period, if the work has begun before submitting request on AD-245
- a practice was started no more than 60 calendar days before the ECP disaster designation was approved for the applicable County Office.

**Example:** A producer contracts to drill a well to supply water for livestock in March. In July, before work has begun, the county is approved for ECP drought. The producer knew in March that he or she would be drilling a well. For ECP purposes, the date the producer signed the contract in March is the starting date for the practice. Since the March signing date is more than 60 calendar days before the drought in July, the producer is not eligible for ECP assistance.

**176 Limited Resource Provisions**

\* \* \*

**\*--A Limited Resource Producer C/S Rate--\***

The maximum C/S rate for limited resource producers is 90 percent.

**B Limited Resource Determinations**

Limited resource C/S rates shall be approved only when COC determines that the producer qualifies after reviewing the information on ACP-256.

Make this determination before issuing the related AD-245.

**C Weighted Limited Resource C/S**

\*--If some eligible persons or legal entities contributing to a practice will qualify for limited--\* resource rates and others will qualify for regular rates, determine the weighted total C/S to be approved on AD-245, page 1.

**D Qualification for Limited Resource Producer**

\*--County Offices shall review USDA's web site to be prepared to assist producers who want to qualify as a limited resource producer. The web site is:

- used as an online tool to determine producer eligibility
- at [www.lrftool.sc.egov.usda.gov/toolasp](http://www.lrftool.sc.egov.usda.gov/toolasp).\*

**E Outreach for Limited Resource Producers**

State and County Offices shall make a concerted effort to ensure that information about ECP signup and eligibility requirements are made available to limited resource producers.

**177 Disapprovals and Deferred Action**

**\*--A Disapproving Requests**

If COC disapproves the request, promptly notify the applicant of:--\*

- reason for disapproval, according to 1-CONSV, paragraph 216
- the right to appeal COC's decision, according to 1-APP.

**B Documenting COC Minutes**

Document disapprovals individually in COC minutes and, at a minimum, include the following:

- producer or agent
- FSN or control number
- practice
- reason for disapproval.

**C Deferred Action**

\*--COC may defer action on the request for a practice for which funds are not currently--\* available. Advise applicants of the deferral.

**178 Pending Requests**

**A Maintaining Pending Requests**

\*--Maintain a file of pending requests filed on AD-245's that COC would be willing to--\* approve if funds were available. See 1-CONSV, paragraph 293, for a sample letter. The original request shall remain on file until it is approved or disapproved.

If additional funds become available, promptly advise applicants.

**B Reviewing Pending Requests**

\*--Review the file of pending requests periodically, at a minimum every 90-calendar days. Cancel requests of producers who are no longer interested in participating in the program, and modify requests amounts for AD-245's where needs change. Modify county funding request, if necessary.--\*

**179 Requests Requiring Special Approval**

**A Reviewing and Approving Requests for ECP Assistance**

\*--Before COC approval, an STC representative shall review and approve requests for ECP assistance from:

- State Office employees
- COC members
- County Office employees and any other county-level USDA employees.

ECP-PM shall review and approve requests for ECP assistance from:

- STC members
- SED.

**Note:** Copies of AD-245 shall be submitted for requests for ECP assistance requiring special approval. Do not send original paperwork.

**B C/S Approval Authority**

According to subparagraph A, approvals for total C/S per person or legal entity, per ECP-designated disaster, shall be as follows.--\*

<b>IF C/S amount is...</b>	<b>THEN approval authority is...</b>
\$50,000 or less	COC.
\$50,001 to \$100,000	STC.
more than \$100,000	ECP-PM.

## 179 Requests Requiring Special Approval (Continued)

**C Submitting Requests to CEPD**

When submitting C/S requests \* \* \* to ECP-PM, the following information **must** be included as part of the documentation:

- \*--exact amount of C/S requested--\*
- ECP practices that are involved
- computations showing the total eligible cost multiplied by the C/S percentage, as provided in subparagraph 42 B

**Notes:** The total eligible cost is the total sum of all eligible practice costs upon which to base C/S.

The total C/S requested must equal the C/S calculated for each practice minus any C/S paid previously.

- copies of AD-245's
- \*--copies of AD-862's--\*
- a completed copy of FSA-23 for each request submitted (Exhibit 12).

**Note:** Base the agricultural market value of the affected land on either of the following:

- acres served, if the practice is reported as acres served
- acres, if the practice is reported as acres.

- \*--map of affected farms
- photographs--\*

**180 Determining Approval Amount**

**A Factors to Consider**

In determining approval amount, consider the following factors:

- extent of damage and estimated eligible repair costs
- amount of cost sharing requested
- size of farm, including a breakdown by acres of cropland, irrigated land, pasture, and total acreage
- type of operation, including principal crops, and types and numbers of livestock
- \*--time sensitive nature of request.

**B Additional Factors to Consider**

COC's recommendation, if applicable, for amount of cost sharing and justification for the recommended amount shall be considered if STC or ECP-PM approval is required.--\*

181 Documenting COC Decisions

**A Action**

COC shall review AD-245 and document the decision on the hard copy of AD-245, page 1, according to 1-CONSV.

**B COC Determinations**

All COC determinations involving action taken on all AD-245's **shall** be recorded in COC minutes.

At a minimum, each COC determination **shall** include the following:

- producer's or agent's name
- FSN or control number
- practice
- C/S approved.

**Note:** Each application **shall** be listed **separately**.

181 Documenting COC Decisions (Continued)

**C Notify Applicant**

Notify the applicant of the practice extent and approved C/S with a copy of AD-245, page 2.

Include with AD-245, page 2, other explanatory information needed to help the applicant perform the practice and qualify for C/S. Examples of this information include the following:

- practice specifications and any other information needed to comply with program requirements
- how to make a performance report
- \*--rules governing dividing or withholding C/S when another person or legal entity--\* contributes to the cost of performing the practice and the necessity for reporting those contributions on AD-245
- encouraging the applicant to complete the practice at the earliest possible time
- advising the applicants of their responsibility to obtain necessary easements and permits.

**182 Setting Expiration Dates****A Practice Expirations and Extensions**

Except for drought approvals, COC shall establish realistic expiration dates of no more than 6 months for completing approved practices.

**B Extensions**

Extensions:

- may be granted, if necessary
- shall be documented and approved by an STC representative.

\*--STC or its representative may approve 2 extensions, totaling up to 1 year in length, under--\* unusual circumstances.

**Note:** Unusual circumstances shall be documented in COC or STC minutes.

**C Drought Extensions**

Drought practice approvals shall not extend more than 60 calendar days from the date COC approves the practice.

- STC or its representative may approve **1** extension up to 60 additional calendar days under unusual circumstances.

**Note:** Unusual circumstances **shall** be documented in COC or STC minutes.

- If drought conditions change, re-evaluate the applicant's eligibility.

**183 Expiration Notice**

**A Preparing Expiration List**

Prepare a computer-generated list of AD-245's expiring in 30 calendar days every 15-calendar days to keep track of approvals that need to be completed within a 30-day period.

**B Documenting Extensions in COC Meetings**

Document extensions individually in COC minutes and, at a minimum, include the following:

- producer of agent
- FSN or control number
- practice
- reason for extension.

184 Canceling Approvals

**A Canceling Approved AD-245**

Cancel an approved AD-245 when the performance report is not filed by the expiration date.

- Notify the assigned technical agency.
- Document the action taken on AD-245, page 1, and notify the producer.

**B Suspending Cancellation**

If a performance report on AD-245, page 2, is not filed promptly, cancellation may be delayed if the County Office has a definite indication that the practice was performed in a timely manner.

- Certification of performance on AD-862 and personal knowledge of a committee member or County Office employee are acceptable reasons for suspending cancellations.
- Take immediate action to obtain the performance report.

**\*--Note:** If the performance report is not obtained within 60 calendar days of the practice expiration date, cancel the approval.--\*

**185 Reinstating Canceled Approvals**

**A Conditions to Reinstatement Canceled Approvals**

COC may reinstate a canceled approval when **all** of these conditions apply:

- the participant requests reinstatement in writing
- the practice was started before cancellation
- the practice was or will be completed within a time prescribed by COC
- funds are available to reinstate the approval.

**186-210 (Reserved)**

**Section 3 Performance Report Requirements**

**211 Filing Performance Reports**

**A Who May File**

\*--Any eligible person or legal entity that paid a part of the cost of a completed practice may--\* sign the performance report. See paragraph 96 and 1-CM for provisions applying to minors.

**B Performance Reports**

\*--To be eligible for C/S payments, participants who perform approved practices must report--\* performance on AD-245, page 2, and provide any required supporting data by the practice completion date.

**C Dates and Signatures on Performance Reports**

Performance reports must be signed and dated by the participant or the authorized representative whose name appears on the approved AD-245, page 2. Mailed reports shall be date stamped upon receipt.

The following provides guidelines for signatures on performance reports.

\*--

<b>IF...</b>	<b>THEN...</b>
AD-245, page 2 is signed by a person or legal entity other than the participant to whom AD-245 was issued	determine whether the person or legal entity is authorized to file the report according to subparagraph A.
practice was performed by an eligible person or legal entity other than the person or legal entity to whom the approval was issued	revise the name on AD-245 accordingly.
practice or component is not completed	AD-245, page 2 should not be signed.
performance report involves signatures for deceased, missing, or incompetent persons	see 1-CM.
persons or legal entities are not eligible to receive a payment	they are not required to sign AD-245, page 2.

--\*

**212 Reporting Dates**

**A Final Date to Report Performance**

Performance must be reported on or before the expiration date or by the authorized extension date granted by COC (paragraph 211).

**B Filing in Timely Manner**

\*--AD-245, page 2, is filed in a timely manner when it is delivered to, or postmarked for delivery to, the County Office or COC on or before the practice expiration date.--\*

If the date stamp shows that AD-245, page 2, was received in a timely manner, do not question the producer's failure to date AD-245, page 2.

**C Not Filing in Timely Manner**

For reports not filed in a timely manner, enter either of the following on AD-245, page 2:

- date received and initial the entry
- postmarked date and initial the entry.

\*--Cancel AD-245 to deobligate funds, and notify the participant with appeal rights.--\*

215 **Supporting Data**

**A Obtaining Evidence**

In all cases, obtain evidence to determine whether practice requirements are met and to determine proper payment. This may include:

- necessary invoices
- canceled checks
- paid receipts
- analysis tags
- other similar evidence.

**B Invoices and Documentation**

Inform the applicant that proof of payment documentation must be maintained for 1 year after the end of the FY in which the practice was completed for C/S.

Handle cost data for payments according to the following.

<b>Step</b>	<b>COC Action</b>
1	Applicant must provide satisfactory evidence to determine whether practice requirements were satisfied, which may include: <ul style="list-style-type: none"> <li>• invoices</li> <li>• canceled checks</li> <li>• paid receipts.</li> </ul>
2	Manually enter the cost of performing the components of the practice on AD-245, page 2, column G, above the extent reported.
3	If a discount was applied, use the sale price minus the discount to compute C/S.
4	*--Consider costs reported paid by ineligible persons or legal entities.--*

215 Supporting Data (Continued)

**B Invoices and Documentation (Continued)**

Step	COC Action
5	If used materials are involved, COC shall determine and document the value of these materials based on current commercial rates.
6	<p>If the producer performed the practice with the producer’s own labor, equipment, or materials, the producer shall submit signed, itemized statements.</p> <p>Statements shall include:</p> <ul style="list-style-type: none"> <li>• dates of work performed</li> <li>• cost per hour charged for labor</li> <li>• type of equipment used</li> <li>• charge for equipment</li> <li>• type and cost of materials used</li> <li>• other applicable information.</li> </ul> <p>Costs allowed in these cases shall not exceed the prevailing current commercial rates determined by COC.</p>

**C Retaining Invoices and Documentation**

Keep supporting evidence for percent of cost practice payments on file in the County Office for the same period as for other related program documents. See 25-AS.

For C/S computed using the percent of cost method, inform the applicant that proof of payment documentation must be:

- maintained for 1 year after the end of the FY in which the practice was completed
- presented within 30 calendar days to the County Office if selected for spot check.

\*\*\*

## 216 Maintenance and C/S Refund Responsibility

### A Certification on AD-245

Ensure that the participant is aware of the practice maintenance and C/S refund responsibilities when certifying practice performance on AD-245, page 2.

The participant agrees to refund all or part of the C/S assistance paid as determined by COC if before the expiration of the practice lifespan specified on AD-245, page 2, the practice is destroyed or not properly maintained.

### \*--B Relinquishing Control or Title to the Land--\*

If the participant voluntarily relinquishes control or title to the land on which the practices have been established, the participant must do 1 of the following.

- Obtain a written statement from the new owner, operator, or both, agreeing to properly maintain the practice for the remainder of its specified lifespan.
  - This written statement must be attached to the original AD-245, page 2.
  - If a written statement is obtained from the new owner, operator, or both:
    - the original participant is no longer responsible for practice maintenance or for refunding any C/S as determined by COC
    - the person signing the written statement is responsible for practice maintenance and refunding any C/S as determined by COC.
- Retain responsibility for practice maintenance and C/S refunds if a written statement from the new owner, operator, or both, is not obtained.

**Note:** It is the participant's option to obtain a written statement from the new owner, operator, or both. **If the practice is not maintained and used for its intended purpose**, the original participant is responsible for C/S refunds if a written statement has not been obtained.

217-224 (Reserved)



## Section 5 Reporting Contributions

### \*--235 Multiple Persons or Legal Entities Who Share Cost of Practice

#### A List Persons or Legal Entities Who Share Cost of Practice

AD-245, page 2 shall include or have attached a list of names and addresses of all persons and legal entities who shared in the cost of the practice and the extent of their contributions. The list shall include any ineligible person or legal entity, State, or Federal agency.

#### B Additional Criteria

When creating the list in subparagraph A, consider any available information on the eligibility of the other contributors.

**Note:** A person or legal entity who is fully compensated or reimbursed for materials, equipment, services, or labor is **not** a contributor.

### \*--C Performance Reports When More Than 1 Person or Legal Entity Contributed

If more than 1 person or legal entity contributed to a practice, determine whether:

- all contributors qualify as separate persons or legal entities according to paragraph 92 and 4-PL
- each contributor is eligible to receive C/S
- any contributors are ineligible according to paragraph 239.--\*

**236 (Withdrawn--Amend. 3)**



**237 Dividing C/S Based on Contributions****\*--A All Costs Paid by 1 Eligible Person or Legal Entity**

A person or legal entity that pays all costs of performing a practice is entitled to the C/S payment.

**B Costs Paid in Equal Proportions by Eligible Person or Legal Entity**

If 2 or more eligible persons or legal entities equally contribute to the cost of performing the practice, divide C/S equally.

**C Costs Paid in Unequal Proportions by Eligible Person or Legal Entity**

If 2 or more eligible persons or legal entities contribute to the cost of performing a practice and COC determines that each person's or legal entity's contributions are not in equal proportions, COC shall:

- prorate the C/S payments based on the individual's contributions
- document how each person's or legal entity's percent of contribution was determined.

**D Part of Costs Paid by Ineligible Person or Legal Entity**

Total practice cost used to compute C/S shall **not** include contributions made by ineligible persons or legal entities.

Make no C/S payment to any person or legal entity for a practice for which all costs are paid by ineligible persons or legal entities.

**Note:** See paragraphs 91 and 92 for eligible and ineligible participant provisions.--\*

\* \* \*

**\*--238 Cost Data When Ineligible Persons or Legal Entities Contributed**

**A Ineligible Contributions**

Examples of ineligible contributions include materials, services, or cash provided by an ineligible person or legal entity to an eligible person or legal entity.

**B Reporting Ineligible Contributions**

Report the contribution of an ineligible participant on AD-245, page 2. Include the--\* following information:

- name of the ineligible contributor
- total cost of performing the practice
- dollar value of the ineligible contribution made
- describe the ineligible contribution.

**\*--239 Computing C/S if Ineligible Participants Contributed****A Computing C/S**

If an ineligible participant contributed to a practice, C/S is computed by subtracting the ineligible contribution from the total cost. C/S is based only on the eligible participant's contribution.

**B Example 1**

Producer A, an eligible participant, incurs \$4,000 for a practice. Producer B, an ineligible participant, contributes \$1,000 for the practice. Total cost of the practice was \$5,000. Percent of cost rate is 75 percent.

The ineligible contribution (\$1,000) will be deducted from the total practice cost (\$5,000) to compute eligible C/S. Producer A will receive a \$3,000 C/S payment (75 percent of \$4,000).

**C Example 2**

Producer A, an eligible participant, pays \$6,000 for materials for a practice. A State agency contributes \$2,000 worth of materials to the practice for a total practice cost of \$8,000.

C/S level for the practice is 75 percent of the total cost. C/S paid to the eligible participant will be based on the eligible participant's contribution to the practice, which was \$6,000.--\* The producer will receive 75 percent of \$6,000 or \$4,500.

**240 (Withdrawn--Amend. 3)**

**241-250 (Reserved)**



**Section 7 Miscellaneous Situations****272 Performance Not Meeting Specifications or Requirements****A Erroneous Official Measurement**

Costs may be shared for a practice even though performance does not meet specifications or requirements, if both the following apply:

- producer relied on an erroneous official measurement
- enough material was applied to meet the minimum requirements of the erroneous measurement.

**Note:** This provision does **not** apply if the producer should have known it was in error.

**B Adequate Solution to Conservation Problem**

C/S may be paid for the extent actually performed if:

- COC determines that the practice solves the problem for which it was approved
- the following apply:
  - producer satisfies COC that a reasonable effort has been made to meet requirements
  - \*--producer agrees on AD-245 that the practice will be maintained for the required--\* lifespan or C/S will be refunded
  - assigned technical agency's certification has been considered.

**273 Requirements Met but Practice Failed**

**A Minimum Requirements Met**

Costs may be shared for a practice if the practice was properly performed but failed for reasons beyond the producer's control.

- COC shall determine whether the producer must perform other needed measures as a condition for cost sharing.
- Costs may be shared for other eligible required measures if the producer files a new application.

**Note:** Costs associated with drilling a "dry" well are not eligible for assistance.

**Part 4 Payments**

**Section 1 Computing C/S Earned**

**292 Payments**

**A Issuing Payments**

Issue payments according to 1-CONSV. Payments are automatically issued through the CRES/accounting interface when performance is recorded on AD-245.

**B Payment Review**

An STC representative shall be responsible for ensuring that payments are justified.

The STC representative shall provide a written report of the findings to SED.

**C Ineligible Contributions**

\*--Ineligible contributions shall be handled according to paragraph 239.

**D Producer Maximum**

The producer shall receive no more than 75 percent of out-of-pocket costs. See paragraph 53 for bartering.

**E Completing CCC-770 ECP-2**

COC or designee may complete CCC-770 ECP-2 before an ECP payment is made--\* (Exhibit 5).

**293 Eligible and Ineligible Items for Computing C/S**

**A Eligible Costs**

Review all applicable costs for labor, material, equipment used, sales tax, and value of used material to determine the total eligible cost of the practice.

Expenses for personal labor and personal equipment should be less than that charged by contractors who are entitled to make a profit for their efforts.

**B Ineligible Costs**

\*--Ineligible costs for computing C/S earned include any items specified in subparagraph 46 B.--\*

\* \* \*

**294 Computing C/S Through Column H on AD-245, Page 2, Column H**

**A When to Compute C/S**

Compute C/S earned for the practice only after **all** these actions have been taken:

- the performance report has been reviewed
- all required information has been obtained
- approved adjustments have been made in:
  - C/S
  - extent
  - materials
  - practice components.

**B Rounding**

Round all C/S earned to the nearest whole dollar as follows:

- increase an amount of \$.50 or more
- decrease an amount of \$.49 or less.

**C Extent Performed Equals Extent Approved**

If the extent performed equals the extent approved, enter C/S approved on AD-245, Page 2, column H.

294 Computing C/S Through Column H on AD-245, Page 2, Column H (Continued)

**D Extent Performed Less Than Extent Approved**

<p><b>IF the extent performed is less than the extent approved, and the rate is a...</b></p>	<p><b>THEN...</b></p>
<p>***</p>	<p>***</p>
<p>*--percent of cost NTE--*</p>	<p>enter the smaller of the following in column H:</p> <ul style="list-style-type: none"> <li>• C/S approved in column F</li> <li>• rate in column E multiplied times the total cost</li> <li>• maximum “not to exceed” unit multiplied times extent performed.</li> </ul> <p><b>Example:</b> 75 percent of the actual cost not to exceed \$_____ per unit.</p>

**Example:** An EC1 practice was approved for 75 percent of the actual cost not to exceed \$100 per acre. There were 10 acres performed at a total cost of \$5,000. The total C/S’s paid would be \$1,000, calculated as follows.

Ten acres times \$100 per acre = \$1,000. Seventy-five percent of the actual cost would be \$3,750, or \$375 per acre, and there was a restriction of \$100 per acre.

294 Computing C/S Through Column H on AD-245, Page 2, Column H (Continued)

**E Extent Performed Greater Than Extent Approved**

<p><b>IF the extent performed is greater than the extent approved, and the rate is a...</b></p>	<p><b>THEN...</b></p>
<p>***</p>	<p>***</p>
<p>*--percent of cost NTE--*</p>	<ul style="list-style-type: none"> <li>• circle the cost of performing the practice in column G and enter the prorated cost of performing the extent on which cost sharing is approved</li>   <li><b>Note:</b> To determine the prorated costs, divide the extent approved (column D) by the extent performed (column G). Multiply the result times the total cost.</li>   <li>• enter the smaller of the following in column H:             <ul style="list-style-type: none"> <li>• the uncircled cost multiplied times the applicable percent</li> <li>• the uncircled units performed by the unit limit, if any</li> <li>• the C/S approved in column F.</li> </ul> </li> </ul>

**295 Computing Limited Resource Payments**

**A Using Limited Resource Provision**

Determine how to compute payments using the low-income provision according to the following.

<b>IF the eligible contributors are...</b>	<b>THEN...</b>
all limited resource producers	compute payment in the regular manner using the limited resource rate.
not all limited resource producers	<b>manually</b> prepare a separate hard copy of AD-245, page 2, except for P-A participants, for each *--participant listed as indicated in subparagraph B.--*

**295 Computing Limited Resource Payments (Continued)**

**B Preparing AD-245 When Producers Who Contribute to Cost of Practice Are Not All Limited Resource**

Prepare a separate hard copy of AD-245, page 2, when producers who contribute to the cost of the practice are not all limited resource producers according to the following.

Step	Action
1	*--Determine each participant's share of the practice extent by dividing the extent of the practice performed among the eligible participants based on each participant's contribution to the practice cost.--*
2	Using either the limited resource or regular rate, whichever is applicable, compute C/S earned based on the prorated extent.
3	*--Complete AD-245, page 2, based on the participant being entitled to all of--* C/S for this portion of the practice.
4	Manually enter appropriate cross-references and explanation on AD-245, page 2.

**C Computations for Limited Resource Producers Approved for P-A**

For practices performed under P-A provisions, manually enter computations on a hard copy of AD-245, page 2, according to subparagraph B. Complete ACP-153A by entering C/S in column L.

296 Completing AD-245, Page 2

**A Data To Be Completed**

Record the following data on the hard copy of AD-245, page 2.

Step	Field	Action
1	Total Cost-Shares Earned	Enter total C/S earned from column H.
2	Payment Advance (Partial Payment)	Enter any partial payments made.
3	Setoff	*--Leave blank.
4	Debt Assignment	Leave blank.
5	Net Payment	Leave blank.--*
6	Payment Approved (Initials)	Person authorizing the payment shall initial the Payment Approved block. This person shall be an employee other than the employee who computed cost sharing.

297-320 (Reserved)

**Section 3 Issuing Payments**

**\*--331 Issuing Program Payments--\***

**A Making Program Payments and Reporting Data**

ECP payments are issued through the CRES/Accounting interface when performance is recorded according to 1-CONSV.

**\*--B eFMS**

ECP allotments are recorded in accounting's eFMS. If sufficient funds are not available, the payment request will fail.--\*

**332 COC Payment Responsibilities**

**A Controlling Allocations**

COC is responsible for keeping the sum of payments for ECP within the amount allocated to the County Office. This shall be accomplished using automated CRES ledgers and electronic funds control.

**B Issuing Payments**

Payments may be issued to:

- participants, joint payees, or assignees
- creditor U.S. agencies to offset amount due
- IRS for nonresident alien income tax.

**333 Agreements Between Landlords and Tenants**

**A Effect of Agreement**

\*--Pay C/S to the eligible participant who pays the costs of performing the practice regardless--\*  
of whether the lease or other agreement provides for the payment to be:

- made in some other manner
- relinquished to someone who did not pay the related costs.

**B Determining Proper Payee**

Review the facts in the case if there is a question of whether the information on AD-245 is correct. To determine who paid the costs, COC shall consider the:

- terms of the lease or other agreement, which may have a bearing on the determination only if the terms clarify the way the practice was performed
- existing conditions and the way the practice was performed
- manner in which costs were billed and paid.

333 Agreements Between Landlords and Tenants (Continued)

**C Rules for Specific Types of Cases**

A requirement in a lease or other agreement that a tenant must perform a practice does not make the practice ineligible.

Determine who pays the practice cost in the following specific cases according to the following.

<b>IF the lease or other agreement indicates that the...</b>	<b>THEN consider...</b>
landlord and tenant share the cost of the practice	both as having contributed to the cost unless refuted by evidence.
tenant will perform the practice	the tenant as having paid the entire cost unless refuted by evidence.
landlord will pay the cost of the practice	the landlord as having paid the entire cost unless refuted by evidence.

**Note:** Do **not** consider a producer as having contributed to the cost of performing a practice if COC finds that the producer has been or will be fully reimbursed for the contribution through rental adjustment, exchange of cash, or other consideration by **\*--another person or legal entity.--\***

**334 When to Prepare Payment**

**A Preparing Payment**

Record performance and issue payment when all of the following have been satisfied:

- performance was appropriately certified on AD-862 according to DM 9500-1
- producer certifies practice completion on AD-245 according to paragraph 211
- supporting documentation is submitted according to paragraph 215
- current AD-1026 is on file according to paragraph 4
- other pertinent information is received, if applicable.

**Note:** Payments are issued by the CRES/accounting interface when performance is recorded according to 1-CONSV.

**335 Preparing and Issuing Payment for Technical Services**

**A State Office Action**

State Offices shall prepare and issue payment to NRCS for technical services for ECP according to 1-FI and 1-CONSV.

**B Correcting Payments**

Correct technical service payments according to 1-FI.

**\*--336 Refunds, Priority of Offsets, Withholdings, and Assignments**

**A Handling Refunds**

Handle refunds according to 3-FI and 1-CONSV.

**B Offset Applicability**

Offsets apply to ECP.

**C Determining Priority**

The priority of offsets, withholdings, and assignments should be determined according to 1-FI, 58-FI, and 63-FI.--\*

**337-350 (Reserved)**

**Section 4 Adjustment Applications****351 When Adjustment Application Is Required****A Conditions Requiring Adjustment Applications**

An adjustment AD-245, page 2, is required if:

- overpayment is caused by an error in data or computations, which includes excess credit to any refund or other charge as well as overpayment \* \* \*
- underpayment is caused by an error in computations, which includes deficient credit to a refund or other charge as well as underpayment \* \* \*
- underpayment is caused by erroneous data

**Note:** If the applicant reported the erroneous data on the original AD-245, page 2, the applicant must sign a corrected AD-245, page 2, to receive the additional payment or credit.

- If the County Office made the error in the data, the applicant's signature is not required.
- For P-A's, make correction on ACP-153A. Obtain the initials of the participant and FSA employee making the correction.
- penalty is erroneously assessed, which applies if the data and computations on the original AD-245, page 2, are correct and the penalty was deducted in error.

**B Correction Process**

See 1-CONSV, Part 5, Section 10 to correct AD-245 and, as applicable, issue additional payments or create a receivable.

**352 Destroyed, Lost, or Stolen Checks**

**A Unnegotiated Checks**

For unnegotiated checks that are destroyed, lost, or stolen, do **not** prepare an adjusted AD-245, page 2. Replace these checks according to 1-FI.

**353 Payments Due Deceased, Missing, or Incompetent Persons**

**A Preparing Payments**

Prepare payments due persons who are deceased, missing, or incompetent according to 1-CM.

**354-370 (Reserved)**

**Section 5 (Withdrawn--Amend. 3)**

**371-375 (Withdrawn--Amend. 3)**

**376-390 (Reserved)**

**393 Extent of Spot Checks**

**A Performing Spot Checks**

Perform spot checks according to the following.

<b>Current Year Practices</b>	
<b>Step</b>	<b>Action</b>
1	Obtain ACP-301 for practice completed during the current FY.
2	Select the performed practices that are required spot checks.
3	Select a minimum random sample of at least 5 percent or 5 of the total practices performed (including required spot checks) that are listed on ACP-301.
4	For all practices selected, check any other C/S practices with an unexpired lifespan on the same farm.
5	Complete FSA-276 according to Exhibit 15 for each farm.

<b>Prior Year Practices</b>	
<b>Step</b>	<b>Action</b>
1	Manually prepare a listing of all prior year ECP practices still within their active lifespan not listed on the current year ACP-301.
2	Select those practices that are required spot checks.
3	Select a minimum random sample of at least 5 percent or 5 of the total practices performed (including required spot checks) that are on the manual list (including required checks).
4	For all practices selected, check any other C/S practices with an unexpired lifespan on the same farm.
5	Complete FSA-276 according to Exhibit 15 for each farm.

**B State Office Spot Checks**

\*--To ensure that the policies and provisions of ECP are being followed, a State Office representative shall review the following number of applications during times of program implementation; for County Offices that receive:

- less than 1,000 applications, the greater of 10 ECP applications or 10 percent of the ECP applications
- greater than equal to 1,000 applications, 5 percent of ECP applications.--\*

**394 Scope of Spot Checks****A Accuracy of On-Farm Check**

By visual inspection, verify the accuracy of the information submitted with the performance report. List discrepancies on FSA-276.

**Note:** If the discrepancies on FSA-276 indicate that the practice fails to meet minimum specifications or requirements, enter whether the practice appears to be solving the conservation problem on FSA-276, item 15.

**B Measurements**

When acreage is involved in the practice report, verify the acreage and document findings on FSA-276.

**C Inspecting Producer's Records**

Review producer's **proof of payment** and supporting evidence to ensure that they conform to the reported cost of the practice. See subparagraph 215 B.

## Section 2 Violations

### 401 Failure to Maintain and Use Practices

#### A Policy

A practice must be maintained and used throughout its normal lifespan for the purposes for which cost sharing was approved. This applies if control of the land on which a practice was performed:

- remains under the participant's control
- is voluntarily relinquished by the participant, and the new owner or operator agrees in writing to maintain the practice throughout its lifespan.

**Exceptions:** This policy does not apply under the following circumstances.

- ECP-PM determines upon reviewing STC/COC recommendation and the fully documented case file that good farming practice does not require this maintenance and use.
- Failure to maintain and use the practice was because of conditions beyond the participant's control.

#### B Actions That Constitute Violations

Actions or failures to take action that result in the failure of a practice to meet its conservation purpose are violations. Payments must be recovered for violations. Violations may include:--\*

- failure to perform normal repair, upkeep, and maintenance
- destruction of or substantial damage to a practice
- discontinuing the use of a practice before the lifespan expires
- conversion of a practice to recreational uses, unless the practice will continue to serve its conservation purpose
- other use or misuse of a practice so that it fails to meet its conservation purpose.

**401 Failure to Maintain and Use Practices (Continued)**

**C Payment To Be Recovered**

Recover the entire C/S paid on the portion of the practice not properly maintained and used.

A partial refund may be required when a practice has not been maintained and COC determines that a total refund is not justified.

The partial refund shall be based on the actual C/S paid multiplied times the percentage of the unexpired lifespan remaining when it is determined that the practice is not being maintained.

**D Conditions That Do Not Constitute Violations**

Failing to maintain a practice is not a violation if STC or COC determines that any of the following conditions exist:

- practice has served its purpose for its lifespan
- failure was because of conditions beyond the producer's control
- failure occurred after all persons who shared in the payment involuntarily lost control of the land
- failure occurred on acreage or other extent of the practice on which costs were not shared.

**E Liability for Repayment Under P-A's**

If failing to maintain a practice renders the practice ineffective in treating the conservation or environmental problem, each person is jointly and severally liable for the entire amount to be recovered. This includes persons who:

- share in the P-A payment
- had control of the land on which the practice was performed at the time the violation occurred.

## 402 Actions That Defeat the ECP Purpose

### A Overview

\*--Any person or legal entity participating in ECP may be required to refund or forfeit payment if that participant adopts or participates in any action that may defeat the purpose of ECP.--\* In these cases, all or any part of C/S that was paid or would otherwise be due under ECP may be required to be refunded or forfeited.

### B Unauthorized Actions

Actions that may defeat the purpose of ECP are:

- failing to maintain practices performed with cost sharing under a previous program
- failure to use a practice for the purpose for which it was approved
- performing other willful acts that either:
  - violate reasonable conservation principles
  - offset conservation accomplishments.

### C Violations Requiring Special Handling

The following types of violations shall be referred to STC:

- \*--a scheme or device depriving other persons or legal entities of C/S
- knowingly filing false claims
- evading the maximum C/S limitation
- evading 1-PL or 4-PL.--\*

**Note:** See 7-CP.

### D Responsibility for Determination

Determining a violation may be based on COC or STC findings.

### E Overreporting Performance

\*--A person or legal entity shall refund all or any part of C/S payments if the participant--\* negligently files a performance report for a greater extent than was actually performed, but the violation does not constitute a false claim (see 7-CP).

**Note:** STC concurrence is required.

**\*--403 COC, STC, and Employee Cases--\***

**A Overview**

COC or STC members who have a personal interest in the outcome of a case on which the committee is to act shall disqualify themselves. In case of disqualifications, the remaining committee members shall determine whether to:

- dispose of the case
- refer the case to ECP-PM for advice.

**B Policy**

Procedures in this part do not cover personnel actions when STC or COC members, County Office employees, or Federal employees are implicated in ECP infractions.

- The criminal, civil, or administrative liability of any of the persons listed, only as it involves ECP aspects of the case, shall be handled under this section.
- Report facts about the participation of Government employees to appropriate administrative officials of the agency concerned.
- Program infractions shall be investigated and handled according to 9-AO even if employees of other agencies are involved.
- Report, in writing, any information indicating infractions involving personnel of another Government agency to that agency.

**404 Withholdings**

**A Refunds**

Handle refunds on pending cases according to 4-CP.

**B Statutory Civil Remedies**

Handle statutory civil remedies for damages for filing false claims according to 4-CP.

**405 Late Payment and Refund Interest**

**A Policy**

\*--Late payments and refund interest rates apply to C/S refunded according to 58-FI.--\*

**406 COC and STC Responsibility**

**A Referring Program Infractions**

COC shall refer any program infractions that appear to violate a Federal statute to STC according to 4-CP.

**B Ensuring Full Compliance**

STC shall ensure full compliance with ECP policy, procedures, and regulations as provided in this and other directives. In addition, STC shall take the following steps to prevent fraud, bribery, conspiracy, discrimination, or other infractions:

- initiate a preliminary review if a significant violation is suspected
- determine whether the facts justify an investigation.

**Note:** Investigations shall be completed according to 9-AO.

**407 Handling Program Infractions**

**A County Office Action**

\*--If a person or legal entity may have violated a program provision relating to payments,--\* document all pertinent facts about the nature and extent of the violation. If the case:

- involves possible violations of criminal or civil statutes, handle promptly according to 4-CP
- is a violation of a program provision and does not involve a false claim or fraud, COC shall make a detailed finding of fact and record its determination.

**Notes:** Include any amount to be recovered in the finding.

If warranted, COC may submit the case with a recommendation for STC action.

**B Producer Notification**

COC or STC shall promptly notify the producer if it finds that program provisions have been violated. Include a statement of:

- COC's determination and the facts upon which it is based
- the amount of overpayment to be refunded with a demand for the refund.

**Note:** Advise the producer of the right to appeal according to 1-APP.

**408-416 (Reserved)**

**Part 6 P-A's**

**Section 1 P-A Provisions**

**417 Developing P-A's**

**A Definition of PA**

A pooling agreement (P-A) is a substantial pooling of resources, efforts, finances, or other contributions by 2 or more eligible persons or legal entities on 2 or more farms to solve a mutual disaster-related conservation problem.

**B How to Develop P-A's**

Develop P-A's according to the following.

Step	Action
1	An individual or group of producers should take the lead in initiating a project and contacting the County Office. The feasibility of the project and technical and financial assistance should be discussed with the appropriate agencies.
2	Individuals choosing to proceed with the project application shall: <ul style="list-style-type: none"> <li>• obtain more detailed information on size, scope, and cost of the project to determine its physical and economic feasibility and benefits</li> <li>• determine whether it would provide benefits to rural and urban communities.</li> </ul>

417 Developing P-A's (Continued)

A How to Develop P-A's (Continued)

Step	Action
3	<p>If factors are favorable, the participants may:</p> <ul style="list-style-type: none"> <li>• organize as a group</li> <li>• designate an agent</li> <li>•*--attempt to get a commitment from other persons or legal entities who have an interest</li> <li>• indicate the proportionate part of the cost each participant will bear.--*</li> </ul> <p><b>Examples:</b> Methods that are used to divide proposed costs are shown in the following examples.</p> <ul style="list-style-type: none"> <li>• Thirty farms receive water from an irrigation ditch that is to be repaired. It might be considered equitable to assess the cost against each participant based on a flat rate per acre multiplied times the acres on the farm receiving water from the ditch. For a mutual district, the contribution may be based on shares.</li> <li>• Repairing a water runoff control measure involves 1,000 units of a practice on farm A and only 200 units on farm B. Only 20 acres are benefitted on farm A, but 80 acres are benefitted on farm B. It might be equitable to base the division of costs on each participant's benefitted acreage.</li> </ul>
4	<p>The group should decide whether to request cost sharing for a practice under P-A. To request P-A, the agent must file AD-245 and complete ACP-153.</p> <p><b>Note:</b> See Exhibit 16 for instructions on completing ACP-153A.</p> <p>The agent will take ACP-153 to obtain the participant's signature to explain in detail P-A conditions, participant responsibility, and how payment will be made.</p>

418 Practice Provisions

**A General Provisions**

Participants in P-A's are responsible for obtaining the authorities, rights, permits, easements, or other approvals necessary to perform the practice.

- All participants in P-A's are jointly and severally responsible for practice maintenance.
- By signing ACP-153, each participant in P-A conveys authorities, rights, easements, or other approvals to the other P-A participants to use the land to install, maintain, and repair the practices.
- \*--Each participant in P-A's must meet the policy for small payments outlined in subparagraph 135 A and Exhibit 4.--\*

**B P-A Practice Approvals**

To approve P-A's, STC's may establish a maximum total C/S for which COC's can approve P-A's without prior STC approval.

**Note:** When the total C/S requested exceeds this amount, P-A's must be submitted to STC.

**418 Practice Provisions (Continued)**

**C Conditions That Make Practices Ineligible Under P-A**

Practices are ineligible for P-A's when:

- the purpose is to permit 1 producer to install a practice on the land of another, primarily for the first producer's own benefit
- \*--only 1 eligible participant contributes to the cost of a practice or if only token contributions are made by other eligible participants, even though the practice may--\* benefit other farms
- an identical problem exists independently on a number of farms and the type of practice would result in primary and direct benefits only to the area treated on each farm.

**D Number of AD-245's**

Prepare one AD-245 per practice.

**433 Revisions to P-A's**

**A Revised ACP-153's**

If a landlord or tenant, including new persons, on a farm under an approved P-A has an interest in the project but did not sign the original P-A, the landlord or tenant may sign a revised ACP-153.

Do both of the following when completing revised documents:

- ENTER "Revised" on ACP-153 and ACP-153A and have COC member initial and date
- attach a copy of a statement of explanation to the revised ACP-153 and send a copy to all participants.

**434 Preparing AD-245 for Approval**

**A Completing AD-245 After P-A Is Approved**

Complete AD-245 after P-A is approved according to the following.

<b>Step</b>	<b>Action</b>
1	Complete AD-245 in the same way as other approvals, except show the P-A number instead of the farm number.
2	Attach a copy of ACP-153 and 2 copies of ACP-153A to AD-245 to use in *--reporting each person's or legal entity's contribution when the agent reports--* performance.
3	Issue AD-245 to the agent.

**435-445 (Reserved)**

## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

None

### Forms

The following table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
ACP-153	Pooling Agreement		417-419, 432-434, 446, Ex. 16
ACP-153A	Pooling Agreement Worksheet	Ex. 16	Text, Ex. 16, 17
ACP-256	Request for Consideration Under Low-Income Provision		154, 176
ACP-301	Record of AD-862's (For Automated Processing)		393
ACP-308	Transmittal - Pooling Agreement/Special Project	Ex. 17	432
AD-245	Request for Cost Shares		Text, Ex. 14, 15, 16
AD-672	Reimbursement or Advance of Funds Agreement	77	
AD-862	Conservation Reporting and Evaluation System		Text
AD-1026	Appendix to Form for AD-1026 Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) Certification		2, 4, 334
CCC-36	Assignment of Payment		419
CCC-170	Agreement for ECP Assistance for Levees Not Yet Repaired to Corps of Engineers Specifications	111	
CCC-770 ECP-1	ECP Checklist Before Approval Is Made	Ex. 11	10, 175
CCC-770 ECP-2	ECP Checklist Before Payment Is Made	Ex. 5	10, 292

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-18	Applicants Agreement to Complete An Uncompleted Practice	Ex. 14	321
FSA-23	Determining Agricultural Market Value and Cost Share Per Acre Worksheet	Ex. 12	179
FSA-276	On-Farm Spot Check Record	Ex. 15	393, 394
FSA-357	State Program Allocation		67
FSA-850	Environmental Checklist for Categorical Exclusions	Ex. 11.5	171, 172, 175, Ex 8
NRCS FNM-15	USDA Natural Resources Conservation Service Bill		76

Abbreviations Not Listed in 1-CM

The following table lists all abbreviations not listed in 1-CM.

Approved Abbreviation	Term	Reference
CES	County Extension Service	79
C/S	cost share	Text, Ex. 4, 8, 12
eFMS	electronic Funds Management System	331
EOH	Emergency Operations Handbook	2, 35
ECP-PM	Emergency Conservation Program - Program Manager	Text, Ex. 8
MOA	Memorandum of Agreement	76
NIFA	National Institute of Feed an Agriculture	45, 175
P-A	pooling agreement	Text, Ex. 16, 17

Redelegations of Authority

The following table lists all redelegations of authority for this handbook.

Redelegation	Reference
STC may redelegate authority to approve pooling agreements.	67, 115

## Definitions of Terms Used in This Handbook

### Aquaculture

Aquaculture means the propagation and rearing of aquatic species for food from a commercial operation conducted on private land.

### Aquaculture Facility

An eligible aquaculture facility is a commercial aquaculture operation conducted on private land.

### Bartering

Bartering is the direct exchange of goods or services without using money, according to the established rates of exchange or by bargaining between the parties.

### Disabled Person

The law defines a disabled person as anyone who:

- has a physical or mental impairment that substantially limits 1 or more of that person's major life activities
- has a record of this impairment
- is regarded as having this impairment.

### District

District, for the purposes of this handbook, means organized districts, mutual water companies, and associations. For the purposes of this policy, districts shall include those formal and informal organizations that have all of the following characteristics:

- are formed under State law either:
  - to solve a mutual problem, such as, flood control
  - carry out a mutual purpose, such as, distribution of irrigation water
- have the authority to tax or assess individual members to carry out the proposed conservation measures
- can encumber the member's land, water rights, or other property through unpaid liens.

### Dry Well

A dry well is a well that fails to yield water.

## Definitions of Terms Used in This Handbook (Continued)

### Eligible Permanent Farm Fencing

Eligible permanent farm fencing is a permanent barrier recognized within the county as a farm fence built to control livestock.

### Emergency Designation

An emergency designation is a determination by COC that a geographic area in the county has suffered damage by a natural disaster. In the case of severe drought, emergency program designation is made by ECP-PM.

### Farmland

Farmland is the sum of the following:

- cropland
- noncropland.

### Lifespan of a Practice

The lifespan of a practice is a period of time for which the practice is subject to spot checks to verify that it is being maintained and used for the purpose designed.

**Note:** Lifespans begin January 1 after the calendar year the practice is installed.

### Limited Resource Producer

A limited resource producer:

- \*--is an applicant or participant with direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 years 1/--\*
- has a total household income 2/ at or below the national poverty level for a family of 4, or less than 50 percent of the county median household income in each of the previous 2 years.

**Notes:** 1/ This value will be increased to adjust for inflation using the “prices Paid by Farmer Index” compiled by NASS.

2/ Total household income will be determined annually and indexed for inflation using Commerce Department Data.

**CCC-770 ECP-2, Before Payment Is Made**

Following is a copy of CCC-770 ECP-2. This form is available from the FFAS Employee Forms Online Web Site at <http://165.221.16.90/dam/ffasforms/forms.html>.

\*--

<b>This form is available electronically.</b>		1. Producer's Name			
<b>CCC-770 ECP-2</b> (01-28-10)	<b>U.S. DEPARTMENT OF AGRICULTURE</b> Commodity Credit Corporation	2. State Office Name	3. County Office Name		
		4. Control Number	5. FSN		
		<b>ECP CHECKLIST BEFORE PAYMENT IS MADE</b>			
		6. Disaster Type	7. Fiscal Year		
This is an internal checklist and does not negate any responsibilities by the producer. It does not indicate any misaction or misinformation on the part of the county office if it is not completed. However, it will be used to insure accountability of actions.					
Completion of this form before issuing approvals is optional.					
<b>Verification</b>		<b>Handbook or Other Applicable References</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>
<b>8. Computation:</b>					
A. Supporting documentation (bills, invoices, etc.) has been provided by the producer and is date stamped.		1-ECP, paragraph 215			
B. Minimum qualifying cost of restoration is met.		1-ECP, paragraph 135			
C. Only eligible items are cost shared.		1-ECP, paragraph 46 and 293			
D. List of all eligible persons or legal entities to receive an ECP payment.		1-ECP, Part 3, Section 5			
E. Make sure cost shares are rounded to the nearest dollar.		1-ECP, subparagraph 294B			
F. No payment or combination of payments exceeds \$200,000 per person per disaster.		1-ECP, subparagraph 5A			
<b>9. Payments:</b>					
A. Was the CCC-770 Eligibility checklist complete and verified to ensure the producer(s) are in compliance to receive ELP payments.		3-PL, paragraph 3			
B. Practice expiration date was not exceeded.		1-ECP, paragraph 182			
C. STC representative has reviewed any request from COC, County Office or State Office personnel.		1-ECP, subparagraph 179A			
D. Approvals are within authorized approval authority.		1-ECP, subparagraph 179B			
E. AD-245, page 2 has been signed by the producer.		1-ECP, subparagraph 211C			
F. Verify participant marked Items G, X and Y on page 2 of AD-245.		1-CONSV, subparagraph 195A			
G. AD-245 has been timely filed – before practice expiration date.		1-ECP, paragraph 212			
H. Practice completed by eligible person or legal entity on eligible land.		1-ECP, Part 1, Section 7			
I. AD-862 completed and signed by responsible technical agency.		1-ECP, paragraphs 225 and 226			
J. Practice location is recorded on aerial photography/imaging.		1-ECP, paragraph 214			
K. AD-245 is updated with final performance data.		1-ECP, subparagraph 211B			
L. Payment does not exceed 75 percent of the producer's out-of-pocket costs.		1-ECP, subparagraph 42A			
M. Payment does not exceed 50 percent of the agricultural market value of the land.		1-ECP, subparagraph 42B			
N. For drought, ECP drought designation approved by ECP PM before signup period is approved.		1-ECP, subparagraphs 35D, E, and H			
O. Has county office made second party review?		1-CONSV, paragraph 194			
P. Payments are issued timely. See 61-FI for prompt payment provisions.		1-ECP 61-FI			
10. Remarks					
<b>Certification:</b>					
<b>I (we) the undersigned certify the above items have been verified or updated accordingly.</b>					
11A. Signature of Preparer				11B. Date (MM-DD-YYYY)	
<b>12A. I concur/do not concur the above items have been verified and updated.</b> <input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur					
12B. CED Signature for Spotcheck				12C. Date (MM-DD-YYYY)	
<b>13A. I concur/do not concur the above items have been verified and updated.</b> <input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur					
13B. DD Signature for Spotcheck				13C. Date (MM-DD-YYYY)	
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--\*



**National Practices (Continued)**

**EC1 Removing Debris From Farmland (Continued)**

**C C/S Policy**

The following provides C/S policy.

<b>IF component is...</b>	<b>THEN C/S is...</b>
removing debris from farmland that meets all of the following criteria: <ul style="list-style-type: none"> <li>• materially affects the productive capacity of the land</li> <li>• prevents carrying out effective conservation measures</li> <li>• prevents returning the land to productive agricultural use</li> <li>• is of a magnitude that requires the use of hired or personal:                             <ul style="list-style-type: none"> <li>• labor not normally required in the operation of the farm or ranch</li> <li>• equipment that would not normally have been required in the operation of the farm or ranch</li> </ul> </li> </ul>	authorized.
removing debris from farmsteads and access roadways that could significantly interfere with normal farming operations	
removing debris that will not interfere with normal farming operations <p><b>Note:</b> Debris must be disposed of in a way that will not:</p> <ul style="list-style-type: none"> <li>• interfere with existing conservation facilities</li> <li>• create a health hazard or an environmental problem.</li> </ul>	<b>not</b> authorized.

**\*--Note:** Based on the ECP Supplemental Environmental Impact Statement, the Robert T. Stafford Disaster Relief and Emergency Act, Pub. L. 93-288, as amended, 42 U.S.C. 5121-5207, and related authorities, FSA-850 is no longer required for ECP projects that solely involve sand and debris removal or other projects that do not require a revised conservation plan, provided these actions will **not** result in the following:

- any ground disturbance beyond any previous disturbance (that is, disturbance below original plow zone)
- the onsite burial of debris.--\*

**National Practices (Continued)**

**EC1 Removing Debris From Farmland (Continued)**

**D C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Specifications**

The practice shall provide details of any requirement, such as type of debris to be removed or manner of disposition, upon which cost sharing is conditioned.

**National Practices (Continued)**

**EC2 Grading, Shaping, Releveling, or Similar Measures (Continued)**

**D C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Lifespan**

The practice shall be maintained for at least 10 years after the calendar year of installation.

**F Specifications**

The practice shall provide any requirements upon which cost sharing is conditioned. Technical standards and specifications may be included or incorporated by reference.

**National Practices (Continued)**

**EC3 Restoring Permanent Fences**

**A Purpose**

This practice corrects damage to fences caused by natural disasters.

**B Practice Policy**

Apply this practice to farmland on which farm fences have been destroyed or seriously damaged by the approved disaster. See paragraph 51.

**National Practices (Continued)**

**EC3 Restoring Permanent Fences (Continued)**

**C C/S Policy**

The following provides C/S policy.

<b>IF component is...</b>	<b>THEN C/S is...</b>
restoring or replacing fences needed to restore the land to productive agricultural use	authorized.
restoring or replacing the smaller of:	
<ul style="list-style-type: none"> <li>• the same type of fence existing before the disaster</li> <li>• C/S for the actual cost of the fence restored or replaced</li> </ul>	
cross fences	
boundary fences	
cattle gates	<b>not</b> authorized.
the simple fence reconstruction with minor damage when materials from the previous fence are used	
reusable material from the fence damaged by the disaster	
the following types of fences:	
<ul style="list-style-type: none"> <li>• corrals and feedlots</li> <li>• ornamental fences</li> <li>• holding pens</li> <li>• cattle guards</li> </ul>	
not for the purpose of enclosing or excluding livestock	

**National Practices (Continued)**

**EC3 Restoring Permanent Fences (Continued)**

**D C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Depreciation Adjustment**

In addition to the maximum C/S limitations, the following guidelines shall be incorporated into the practice.

<b>IF age of the fence at the time of disaster is...</b>	<b>THEN allowable actual cost factor is...</b>
0 to 5 years	100 percent of computed cost share.
6 to 10 years	75 percent of computed cost share.
11 to 30 years	60 percent of computed cost share.
over 30 years	<ul style="list-style-type: none"> <li>• 0 percent if all components are over 30 years old</li> <li>• a percentage determined by COC not to exceed 60 percent if some of a fence’s components have been replaced since the fence was erected and the average of the components is less than 30 years. See subparagraph F for an example.</li> </ul>

**National Practices (Continued)**

**EC4 Restoring Conservation Structures and Other Installations (Continued)**

**C C/S Policy (Continued)**

<b>IF component is...</b>	<b>THEN C/S is...</b>
ditches and other permanently installed systems	authorized.
permanent vegetative cover including re-establishment where needed in conjunction with: <ul style="list-style-type: none"> <li>• eligible structures</li> <li>• installations to prevent critical erosion and siltation</li> </ul>	
*--animal waste lagoons repaired or replaced outside the 100 year floodplain	
animal waste lagoons repaired or replaced within the 100 year floodplain--*	<b>not</b> authorized.
irrigation wells	
portable pumps	
motors	
portable pipe	
roadways including field roads	
wheel move systems	
hand move systems	
center pivot systems	

**National Practices (Continued)**

**EC4 Restoring Conservation Structures and Other Installations (Continued)**

**D C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Lifespan**

The conservation structures and any other installations, including permanent vegetative cover when restored to specification, shall be maintained for at least 10 years after the calendar year of installation.

**F Specifications**

The practice shall specify any requirements on which C/S is conditioned.

**G Technical Responsibility**

Technical responsibility for this practice is assigned to NRCS.

**National Practices (Continued)**

**EC5 Emergency Wind Erosion Control Measures**

**A Purpose**

This practice applies emergency wind erosion control measures to farmland damaged by natural disasters.

**B Eligibility**

Apply this practice to farmland subject to serious wind erosion because of either of the following:

- extended periods of insufficient moisture
- crop residue or stubble is not adequate to protect the land.

**C C/S Policy**

The following provides C/S policy.

<b>IF component is...</b>	<b>THEN C/S is...</b>
contour or cross slope chiseling	authorized.
chiseling where impractical to perform on the contour or on the cross slope	
deep plowing or similar measures to bring subsoil clods to the surface	
measures considered to be normal farming operations, such as those needed to prepare a seedbed for the next crop	<b>not</b> authorized.

**National Practices (Continued)**

**EC5 Emergency Wind Erosion Control Measures (Continued)**

**D C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Specifications**

The practice shall specify any requirements, such as:

- implement required
- depth
- spacing
- tillage measures.

**National Practices (Continued)**

**EC6 Drought Emergency Measures (Continued)**

**F Lifespan**

Permanently installed measures meeting NRCS technical standards and specifications shall be maintained for at least 10 years following the calendar year of installation. Temporary measures must be maintained on the land for a period specified by 1 of the following:

- county program
- ECP-PM.

**G C/S Rate**

C/S rate is 50 percent of the actual cost for all permanent practices and 75 percent of the actual cost for all temporary practices.

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**H Specifications**

The practice shall provide details of any requirements upon which cost sharing is conditioned. Technical specifications may be included or incorporated by reference.

**National Practices (Continued)**

**EC6 Drought Emergency Measures (Continued)**

**I Permanent and Temporary Measures**

\*--The following shows examples of permanent measures and temporary measures.--\*

<b>Permanent Measures</b>	<b>Temporary Measures</b>
buried pipelines	temporary pipelines
irrigation tailwater recovery systems for orchards and vineyards	spring developments
construction and deepening of wells	<ul style="list-style-type: none"> <li>• earthen tanks where a source of underground water is available</li> <li>• dugouts</li> <li>• water troughs</li> <li>• development of seeps</li> </ul>

**National Practices (Continued)**

**EC7 Other Emergency Conservation Measures**

**A Authority**

Other emergency conservation practices may be approved by ECP-PM. Submit a copy of practices for approval to ECP-PM.

**B General Policies**

ECP practices must meet the requirements in this handbook.

**C C/S Policies**

The following provides C/S policy.

<b>IF component is...</b>	<b>THEN C/S is...</b>
replacing or restoring a conservation or pollution abatement practice damaged by the natural disaster	authorized.
restoring the land to its normal production capacity	
returning the land to productive agricultural use as a result of damage directly related to a natural disaster	
conserving or enhancing water resources	<b>not</b> authorized.
for the solution of conservation or environmental problems existing before the disaster	

**National Practices (Continued)**

**EC7 Other Emergency Conservation Measures (Continued)**

**D Lifespan**

All practices must specify a minimum lifespan.

**E C/S Rates**

Express the C/S rate as follows:

“\_\_\_\_\_ percent of the actual cost not to exceed \$\_\_\_ per unit of measure.”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**National Practices (Continued)**

**EC8 Field Windbreaks and Farmstead Shelterbelts Emergency Measures**

**A Purpose**

This practice restores or replaces field windbreaks and farmstead shelterbelts to help stop wind erosion and provide energy conservation.

**B Practice Policy**

Apply this practice to field windbreaks and farmstead shelterbelts that have been seriously damaged by natural disaster.

**C C/S Policy**

The following provides C/S policy.

<b>IF component is...</b>	<b>THEN C/S is...</b>
removing debris from field windbreaks or farmstead shelterbelts	authorized.
planting field windbreaks or farmstead shelterbelts	
purchasing tree seedlings or young shrubs used for field windbreaks or farmstead shelterbelts	
establishing vegetative cover where needed to prevent serious erosion until trees/shrub are established	
chemical or mechanical weed control measures:	
<ul style="list-style-type: none"> <li>• only where needed to establish trees for the windbreak</li> <li>• only during the first 24 months after planting</li> </ul>	<b>not</b> authorized.
windbreaks or shelterbelts that:	
<ul style="list-style-type: none"> <li>• were not pre-existing</li> <li>• were not damaged by the disaster</li> <li>• are in the CRP program</li> </ul>	
planting orchard trees or ornamental plantings	

**National Practices (Continued)**

**EC8 Field Windbreaks and Farmstead Shelterbelts Emergency Measures (Continued)**

**D Maximum Federal C/S**

The maximum Federal C/S is 75 percent. Express the C/S rate as follows:

“75 percent of the actual cost not to exceed \$\_\_\_\_\_ per \_\_\_\_\_ (unit of measure).”

The limitation shall be based on the average cost of performing the unit of measure.

\* \* \*

**E Lifespan**

The practice shall be maintained for at least 10 years after the calendar year of installation.

**F Specifications**

The practice shall provide any requirements upon which cost-sharing is conditioned. Technical standards and specifications may be included or incorporated by reference.

**Sample Formats for Providing Disaster Information to News Media**

**A Natural Disaster Announcement**

A (flood, tornado, etc.) has caused severe damage in \_\_\_\_\_ area(s) of the County. Farms and ranches suffering severe damage may be eligible for assistance under the Emergency Conservation Program (ECP) administered by the \_\_\_\_\_ Farm Service Agency (FSA) County Office if the damage:

- will be so costly to rehabilitate that Federal assistance is or will be needed to return the land to productive agricultural use
- is unusual and is not the type that would recur frequently in the same area
- affect the productive capacity of the farmland
- will impair or endanger the land.

A producer qualifying for ECP assistance may receive cost-share levels not to exceed 75 percent of the eligible cost of restoration measures. No producer is eligible for more than \$200,000 cost sharing per natural disaster occurrence. The following types of measures may be eligible:

- removing debris from farmland
- grading, shaping, or releveling severely damaged farmland
- restoring permanent fences
- restoring conservation structures and other similar installations.

Producers who have suffered a loss from a natural disaster may contact the local FSA County Office and request assistance from \_\_\_ (date) \_\_\_ to \_\_\_ (date) \_\_\_.

To be eligible for assistance, practices must not be started until all of the following are met:

- an application for cost-share assistance has been filed
- the local FSA County Committee (COC) or its representative has conducted an onsite inspection of the damaged area
- the Agency responsible for technical assistance, such as the Natural Resource Conservation Service (NRCS), has made a needs determination, which may include cubic yards of earthmoving, etc., required for rehabilitation.

Sample Formats for Providing Disaster Information to News Media (Continued)

**B Severe Drought Announcement**

A lack of moisture, over an extended period of time, has caused producers in \_\_\_\_\_ areas to suffer from the effects of severe drought conditions. Farms and ranches experiencing severe drought conditions may be eligible for cost-share assistance under ECP. This disaster program is administered by the U.S. Department of Agriculture, Farm Service Agency (FSA), which provides cost-share assistance if the damage is so severe that water available for livestock or orchards and vineyards has been reduced below normal to the extent that neither can survive without additional water.

A producer qualifying for ECP assistance may receive cost shares not to exceed 75 percent of the cost of installing eligible temporary measures. Cost sharing for permanent measures is based on 50 percent of the total eligible cost. Cost-share assistance is limited to \$200,000 per person or legal entity per natural disaster. Approved practices and measures may include:--\*

- installing pipelines or other facilities for livestock water or existing irrigation systems for orchards and vineyards
- constructing and deepening wells for livestock water
- developing springs or seeps for livestock water.

Producers who have experienced severe drought conditions requiring outside assistance to provide supplemental emergency livestock water may contact the local FSA County Office. Requests for assistance will be accepted at \_\_\_\_\_ FSA County Office from \_\_\_\_\_ (date) to \_\_\_\_\_ (date).

To be eligible for cost shares, practices shall not be started until a request has first been filed at the FSA County Office and an onsite inspection of the problem area has been made by COC or its representative. COC will review the inspection findings when considering the request for cost shares.

**CCC-770 ECP-1, ECP Checklist Before Approval Is Made**

Following is a copy of CCC-770 ECP-1. This form is available from the FFAS Employee Forms Online Web Site at <http://165.221.16.90/dam/ffasforms/forms.html>.

\*--

<b>This form is available electronically.</b>					
<b>CCC-770 ECP-1</b> (1-28-10)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation		1. Producer's Name	
<b>ECP CHECKLIST BEFORE APPROVAL IS MADE</b>				2. State Office Name	3. County Office Name
				4. Control Number	5. FSN
				6. Disaster Type	7. Fiscal Year
This is an internal checklist and does not negate any responsibilities by the producer. It does not indicate any misaction or misinformation on the part of the county office if it is not completed. However, it will be used to insure accountability of actions.					
Completion of this form before issuing approvals is optional.					
<b>Verification</b>		<b>Handbook or Other Applicable References</b>		<b>YES</b>	<b>NO</b>
8. County has recorded ECP allocation on System 36.		1-CONSV, paragraph 400			
9. Onsite inspection has been completed.		1-ECP, subparagraph 171A			
10. Practice was started after the producer requested ECP assistance. If "NO", see paragraph 175.		1-ECP, paragraph 175			
11. Was the CCC-770 Eligibility Checklist completed and verified to ensure the producer(s) are in compliance to receive ECP payments?		3-PL, paragraph 3			
12. STC representative has reviewed sample ECP requests before COC approval.		1-ECP, subparagraph 175A			
13. All easements, permits, rights-of-way, water rights are in order.		1-ECP, paragraph 52			
14. FSA-850, CPA-052 or State equivalent is on file.		1-EQ			
15. Ensure that no approvals are made on land that will have an adverse impact on endangered species or historical sites.		1-ECP, paragraph 6 and 1-EQ			
16. No ECP approvals on land under WRP or for the same or similar practices under EWP.		1-ECP, paragraph 6			
17. ECP application has been entered into System 36.		1-CONSV, paragraph 103			
<b>To Be Completed After Approval</b>					
18. COC has approved the AD-245 and documented it in the COC minutes.		1-ECP, paragraph 181			
19. Applicant notified of approved extent and cost shares with copy of AD-245 and letter.		1-CONSV, subparagraph 290			
20. Remarks					
<b>Certification:</b>					
I (we) the undersigned certify the above items have been verified or updated accordingly.					
21A. Signature of Preparer				21B. Date (MM-DD-YYYY)	
22A. I concur/do not concur the above items have been verified and updated. <input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur				22C. Date (MM-DD-YYYY)	
22B. CED Signature for Spotcheck					
23A. I concur/do not concur the above items have been verified and updated. <input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur				23C. Date (MM-DD-YYYY)	
23B. DD Signature for Spotcheck					
<p><i>The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).</i></p> <p><i>To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.</i></p>					

--\*



**Completing ACP-153A**

**A Entries Before Releasing ACP-153A to P-A Agents**

County Offices shall make the following entries before releasing ACP-153A to P-A agents.

<b>Item</b>	<b>Entries Made by County Office Before Releasing ACP-153A to Agent</b>
1	CHECK (✓) "No" to indicate that P-A is not a special project.
2	Enter "1" of "1" if report consists of 1 page. If continuation page is needed, enter "1" of "2" on the first page and "2" of "2" on the second page. If more pages are needed, enter page numbers as required.
3	Enter FY, which should be the same FY as on corresponding ACP-153.
4	Enter agreement number from corresponding ACP-153.
5 and 6	Enter State and county names, which should be the same State and county on corresponding ACP-153.
7	Enter brief, accurate description of location.
8 and 9	Enter number and title of practice needed to address the disaster related damages.
15	Enter the farm number of each participant ensuring that the lines on this form and ACP-153 have the same identical number.

**Completing ACP-153A (Continued)**

**B Entries Reported by P-A Agent**

P-A agents shall complete the following entries.

Item	Entries Reported by P-A Agent
16	*--Enter actual value, dollar or other, of each participant's eligible contribution.--*
24 and 25	P-A agent shall sign and date.

**C Entries Completed by County Office When Returned by Agent**

County Offices shall complete the following entries after ACP-153A has been returned by the P-A agent.

Item	Entries Reported by County Office When ACP-153A is Returned by P-A Agent
10	This data is obtained from AD-245, page 2, column H. An exception is when limited resource producers are involved according to paragraph 295. <b>Only one AD-245 per practice is required for entire group participating in P-A.</b>
11	Enter the total deductions, if any, for partial payments, assignments, and debts. Use whole dollars according to paragraph 294.
12	Enter total ineligible contributions, if any.
13	Enter total eligible cost of the project.
14	Enter result of item 13 minus item 12.
17	Enter result of item 16 divided by item 14.
18	Enter the result of item 10 multiplied by item 17 in <b>whole numbers</b> . Total should equal item 10.
19	Enter any deductions for debts, assignments, or partial payment advanced. Enter amount in dollars and cents as necessary. See paragraph 294.
20	Enter the result of item 18 minus item 19.
***	***

**D Distributing ACP-153's and AD-245 With ACP-153A**

Distribute ACP-153's, AD-245's, and ACP-153A's according to the following:

- COC retains original of ACP-153.
- Give 1 copy of ACP-153 to NRCS.
- Give 1 copy of ACP-153 and AD-245 and 2 copies of ACP-153A to the agent.

Completing ACP-153A (Continued)

E Example of ACP-153A

The following is an example of ACP-153A.

Note: See subparagraphs A, B, and C for a description of the data on ACP-153A.

This form is available electronically.

<b>ACP-153A</b> U.S. DEPARTMENT OF AGRICULTURE (03-30-04) Farm Service Agency		1. SPECIAL PROJECT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	2. PAGE 1 OF 1	3. FISCAL YEAR 2004	4. AGREEMENT NO. 0010		
<b>POOLING AGREEMENT WORKSHEET</b>			5. STATE PA	6. COUNTY Lebanon			
<b>PART A - DESCRIPTION</b>							
7. IDENTIFICATION OF PROJECT AREA (Brief description with attached ACP-308 Transmittal, if used) The Michaels-Bush Ditch 10 miles south of town			8. PRACTICE NO. EC-4	9. TITLE Restoring Conservation Structures & other Installations			
			10. COLUMN H of AD-245 4,000	11. DEDUCTIONS 0	12. INELIGIBLE CONTRIBUTIONS 0		
			13. TOTAL COST 8,000	14. NET TOTAL (Item 13 minus Item 12) 8,000			
<b>PART B - FOR USE AFTER PROJECT IS COMPLETED</b>							
15. FARM NO.	16. CONTRI- BUTIONS (\$)	17. FACTOR	18. C/S EARNED (\$)	19. PAYMENT DEDUCTION (\$)	20. NET PAYMENT (\$)	21. CHECK NO.	22. REMARKS
A.A-45	4,000	.50	2,000		2,000		
B.4-68	2,000	.25	1,000		1,000		
C.A-23	2,000	.25	1,000		1,000		
D.							
E.							
F.							
G.							
H.							
I.							
J.							
K.							
L.							
M.							
N.							
O.							
P.							
Q.							
R.							
S.							
T.							
23. TOTALS	8,000		4,000		4,000		
<b>PART C - CERTIFICATION</b>							
I certify that the contributions listed in column 16 were made by the participants as shown.			24. AGENT'S SIGNATURE			25. DATE (MM-DD-YYYY) XX-XX-XXXX	
The extent and cost-shares will be shown on one AD-245 for the entire agreement. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.							

