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# Agricultural Land Easements

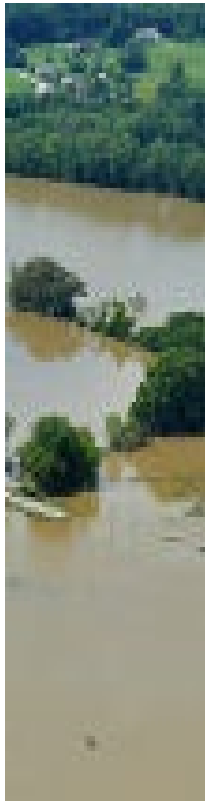
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# Agricultural Conservation Easement Program (ACEP)

## ACEP Purposes are to protect (on eligible land):

- the agricultural viability and related conservation values of eligible land by limiting nonagricultural uses which negatively affect agricultural uses and conservation values,
- grazing uses and related conservation values by restoring or conserving eligible grazing land,
- and restore and enhance wetlands (Wetland Reserve Easement; WRE)



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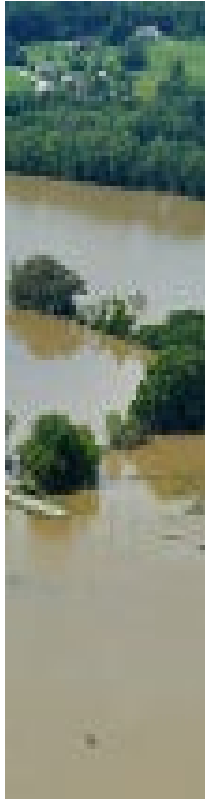
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# Agricultural Conservation Easement Program (ACEP)

## Who is eligible?

- American Indian tribes, state and local governments and non-governmental organizations that have farmland, rangeland or grassland protection programs.
- Landowners of privately held land including land that is held by tribes and tribal members.
- All landowners, including required members of landowner-legal entities, must meet adjusted gross income (AGI) limitations and must be compliant with the HEL/WC provisions of the Food Security Act of 1985.



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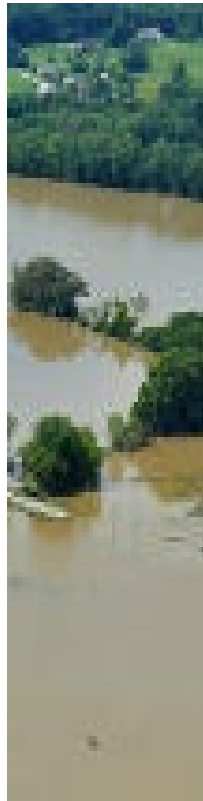
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# Entity – Eligibility and Responsibilities

*NRCS Conservation Programs Manual (528.32)*

- i. Authority to purchase and hold agricultural conservation easements.
- ii. An established agricultural land protection program that purchases conservation easements for the purpose of protecting either of the following:
  - The agriculture use and future viability and related conservation values of eligible land by limiting nonagricultural uses of that land; or
  - Grazing uses and related conservation values by restoring or conserving eligible land.
- iii. Demonstrated a commitment to the long-term conservation of agricultural lands.
- iv. The authority and capability to acquire, manage, and enforce agricultural land easements or their equivalent.
- v. Staff capacity (either directly or through formal agreement with other entities) dedicated to monitoring and easement stewardship.
- vi. The ability to satisfy the non-Federal share requirements for each parcel proposed for funding (see subpart E, section 528.43 of this part, for specific requirements).
- vii. The ability to meet the requirements of the program



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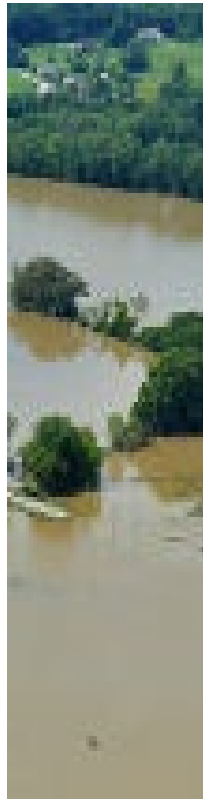




# Entity – Eligibility and Responsibilities

*NRCS Conservation Programs Manual (528.32)*

- i. Perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid agricultural land easements, including such additional actions as required for agricultural land easements acquired through an authorized buy-protect-sell transaction.
- ii. Procure and pay all costs related to determinations of value, due diligence, and closing.
- iii. Hold title to the agricultural land easements
- iv. Meet the requirements of the ALE-agreement and carry out all responsibilities specified in the ALE-agreement, including submitting all required documentation and requests for reimbursements, advances, or extensions by required deadlines.
- v. Ensure that any required or agreed-to agricultural land easement plans are complete at or prior to closing and updated as necessary pursuant to applicable easement deed terms (see subpart G, section 528.63 of this part, for specific requirements).
- vi. Provide information to the FSA for entry into SCIMS.
- vii. Ensure DUNS and SAM registration is maintained for each eligible entity and any co-holding entities.
- viii. Ensure any legal entities that will be identified in the conservation easement deed as a co-holder (grantee) or as a third-party right holder (not a grantee) meet the requirements applicable to such legal entities as set-forth in the terms of the ALE-agreement and described in subpart G, section 528.60A(5) of this part.
- ix. Conduct monitoring at least annually and provide the monitoring report to the State conservationist at least annually.
- x. Enforce the terms of the agricultural land easement.



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# Landowner Eligibility

Landowner must establish or update records with the local Farm Service Agency (FSA) office. The **landowner** (not the operator) must complete the FSA forms.

- Form CCC-901I “Farm Operating Plan for Individuals; and/or
- Form CCC-901E “Farm Operating Plan for Entities
  - Form CCC-901 “Member Information”

Compliance with Highly Erodible Land and Wetland Conservation

- Form AD-1026

Compliance with Adjusted Gross Income (AGI) limits

- Form CCC-941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information

## ACEP-ALE LANDOWNER ELIGIBILITY CHECKLIST

A necessary first step in the Agricultural Land Easement (ALE) application process is for you to go to your local Farm Service Agency (FSA) office to update or establish records and complete the required forms that determine landowner\* eligibility for the program. NRCS staff determine your eligibility using the information obtained from FSA.

This checklist can help you determine if you meet the program eligibility criteria before going to the FSA office to complete the required forms. We list key requirements and forms you may be filling out, suggest documents to help verify your eligibility, and provide some examples to prepare you.

This program is **different** than other programs that FSA works with where the person who completes the forms is typically a farm operator. **The person who completes FSA forms for ACEP-ALE is the agricultural landowner who may or may not be an operator.**

|                          |  |
|--------------------------|--|
| <input type="checkbox"/> | <b>Land ownership by an individual, entity, or Indian tribe or a current written purchase agreement to buy land</b>  |
|                          | Provide a copy of the deed(s) that covers the entire parcel or an executed purchase agreement for the parcel. If the land is owned by one or more individuals, you will work with FSA staff to complete form CCC-902I “Farm Operating Plan for Individuals.” If the land is owned by an entity, such as a trust, LLC, or partnership, form CCC-902E “Farm Operating Plan for Entities” and form CCC-901 “Member Information” will be completed to disclose all members and ownership shares for the entity and designate signature authority. Employer ID Number and Social Security Numbers, ownership shares, and mailing addresses for all members with an interest in the entity are required. Gather any legal documents related to signature authority and other entity organizational documents necessary to execute forms or answer ownership questions. |
|                          | See: <a href="#">Sample Property Deed</a>  |
|                          | See: <a href="#">Sample Purchase Agreement</a>   |
|                          | See: <a href="#">Sample Signature Authority Form</a>   |
| <input type="checkbox"/> | <b>Established farm records in FSA’s Service Center Information Management System (SCIMS)</b>  |
|                          | Identify parcels, farming activities, and all farmers associated with farming activities on your land. Provide tax parcel numbers or a map of the property as a reference for establishing new USDA records. If you have participated in USDA programs before, these records will already be established at FSA, but you will need to ensure they are updated. The resulting report from establishing these records is a Subsidiary Print. The print is a document that summarizes key eligibility information. It shows whether you meet adjusted gross income (AGI) and compliance requirements for highly erodible land and wetlands on any land you own or farm.   |
|                          | See: <a href="#">Sample Subsidiary Print for an Individual Landowner</a>   |
|                          | See: <a href="#">Sample Subsidiary Print for an Entity Landowner</a>   |



# Resources for Entities and Landowners

## American Farmland Trust Publications

<https://farmlandinfo.org/publications/?keywords=118>

- ACEP-ALE Overview for Entities
- ACEP-ALE Overview for Landowners
- ACEP-ALE Landowner Eligibility Checklist
- INSTRUCTION SHEET: Form NRCS-CPA-41A Parcel Sheet
- INSTRUCTION SHEET: Form NRCS-CPA-41 (Entity Application)

### FARMLAND INFORMATION CENTER

#### ACEP-ALE OVERVIEW FOR ENTITIES



#### WHAT IS ACEP-ALE?

The **Agricultural Conservation Easement Program (ACEP)** is a voluntary conservation program that protects agricultural land from conversion to non-farm uses and conserves and restores wetlands. **Agricultural Land Easements (ALE)** are a program enrollment option that keep working lands available for agriculture by protecting the farming uses or protecting grazing uses of grasslands and related conservation values. ACEP-ALE is administered by the Natural Resources Conservation Service (NRCS), a federal agency within the United States Department of Agriculture (USDA) that works with farmers and ranchers to improve and protect their soil, water, and other natural resources.

ACEP-ALE provides matching funds to eligible entities to purchase **agricultural land easements**. An ALE is a permanent easement deed that is recorded as an encumbrance

on the property deed and stays in effect even if ownership changes. It contains provisions that limit future uses and non-farm development to protect agricultural uses. Generally, NRCS may contribute up to 50 percent of the fair market value of the agricultural land easement as determined by appraisal. If you are protecting grasslands of special environmental significance, NRCS can contribute more—up to 75 percent of the fair market value of the agricultural land easement.

There are two types of ACEP-ALE transactions. The most widely used is the Standard ALE transaction, whereas the eligible entity has a written pending offer to purchase the agricultural land easement from a landowner. A Buy-Protect-Sell (BPS) transaction may be an option for certain eligible entities if they own or are purchasing land on a transitional basis for the purposes of securing the agricultural land easement and timely transfer of the ownership of the land to a qualified farmer or rancher.



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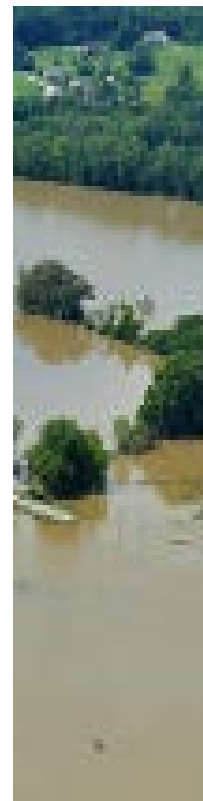
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# Land Eligibility

Eligible Land Types and which also meets one of the four following land eligibility criteria:

1. Parcels enrolled to protect Prime, Unique, or Other productive soil.
2. Parcels enrolled to provide protection of grazing uses and related conservation values.
3. Parcels containing historical or archeological resources.
4. Land that furthers a state or local policy consistent with the purposes of ACEP-ALE. uses and related conservation values of the land and those that maximize the protection of contiguous acres devoted to agricultural use, including land on a farm or ranch.

ACEP-ALE easements may contain forest land on up to two-thirds of the easement area.



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# Signature Authority

NRCS Conservation Programs Manual ([512.21](#))

Section 512.21 B (iv) states: “Appropriate delegation from state or local government official **having legal authority to obligate the unit of government.** This may be in letter form on official letterhead. If the authority is being delegated to a subordinate, the delegation letter must also include the original signature of the designee accepting the delegation.”



|  | Fair Market Value (FMV) |              |           |              |
|--|-------------------------|--------------|-----------|--------------|
| Contribution Source                          | \$500,000               | \$500,000    | \$500,000 | \$500,000    |
| Entity Cash Contribution <sup>i</sup>        | \$100,000               | \$20,000     | \$70,000  | \$200,000    |
| Landowner Donation <sup>ii</sup>             | \$150,000               | \$200,000    | \$100,000 | \$200,000    |
| Procured costs paid by entity <sup>iii</sup> | Not included            | \$30,000     | \$20,000  | Not included |
| Stewardship monitoring costs <sup>iv</sup>   | Not included            | Not included | \$10,000  | Not included |
| Total Non-Federal Share                      | \$250,000               | \$250,000    | \$200,000 | \$400,000    |
| Total Federal Share                          | \$250,000               | \$250,000    | \$200,000 | \$100,000    |
| Eligible Entity Cash Contribution (% of FMV) | 20%                     | 4%           | 14%       | 40%          |



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**Non-Federal share provided by the eligible entity may be comprised of:**

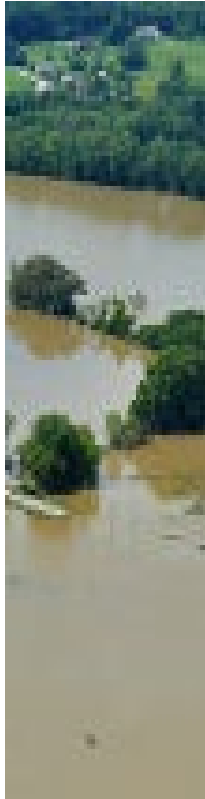
- i. The eligible entity's own cash resources for payment of easement compensation to the landowner. These cash resources must come from a source other than the landowner.
- ii. A landowner donation. A landowner donation is not required under ACEP-ALE
- iii. Procured costs include: Appraisal, legal boundary survey of the easement area, full phase-I environmental site assessment (as per 40FR Part 312), title commitment, or report, title insurance, closing costs
- iv. Eligible entity's contribution of up to 2% of the FMV for easement stewardship and monitoring costs, from sources other than the landowner.



**Note: These footnotes are abbreviated. Full text is found in NRCS Conservation Program manual 440 528.43 B3.**

# Application Process

- **NRCS accepts ACEP-ALE applications on a continuous basis. At the discretion of the State conservationist and in coordination with any required national application cutoff dates, States may establish and advertise one or more application cutoff dates during the fiscal year.**
- Complete applications received prior to the cutoff date will be reviewed, ranked, and considered for funding. Complete applications received after the cutoff date may be considered in the next application period.



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# Submitting Applications (Box and OneSpan)

For more information see: <https://www.farmers.gov/working-with-us/mydocs>



## Box and OneSpan: Secure Solutions for Signing and Sharing USDA Documents

Are you interested in conducting business without ever leaving your home or agricultural operation? USDA's Farm Service Agency and Natural Resources Conservation Service offer new, secure ways for producers to access, sign, and share documents online with just a few clicks.

### Online Resources to Access, Sign, and Share Documents

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# Easement Monitoring

U.S. Department of Agriculture  
Natural Resources Conservation Service

NRCS-CPA-1251  
October 2018

## ANNUAL MONITORING WORKSHEET

Easement Type: RCPP ☐ ACEP-WRE ☐ EWPP-FPE ☐ EWRP ☐ FRPP ☐ GRP ☐ WRP ☐ HFRP ☐ OSL ☐

Easement Number:  State:  County/Parish:

Landowner(s):  Phone:  Monitoring Date:

Email:  Monitoring Event ID:

Monitor(s):  Affiliation if other than NRCS:

Date of Imagery Examined:  Source of Imagery Examined:

### Methods of Monitoring - Questions to answer for each monitoring method

|                                  |   |
|----------------------------------|---|
| <input type="checkbox"/> Offsite | A review of the most recent aerial photography and answer questions 1, 3, and 4 of this worksheet. Include a map marking the location of any observations.  |
| <input type="checkbox"/> Onsite  | At a minimum, a review of available aerial photography, easement deed, management plans, landowner authorizations, as applicable, a field visit, and answer all questions on this worksheet. Include a map marking the location of any observations. Additionally, photography and GPS points should be attached to this worksheet. |

1. A. Landowner Contact (attempted) Date:  Verification Method:

B. Was current land ownership verified? Yes ☐ No ☐

Date of verification:  Verifier's Name:

C. Is there a new landowner? Yes ☐ No ☐

New landowner(s) name (if applicable):

New landowner(s) contact information:

D. Followup requested by landowner: Yes ☐ No ☐

Verification Notes:

**Annual easement monitoring is required:**  
**“Entity Eligibility Requirements and Responsibilities” NRCS Conservation Programs Manual 440 528.32 D(1)(ix):**

(ix) Conduct monitoring at least annually and provide the monitoring report to the State conservationist at least annually.



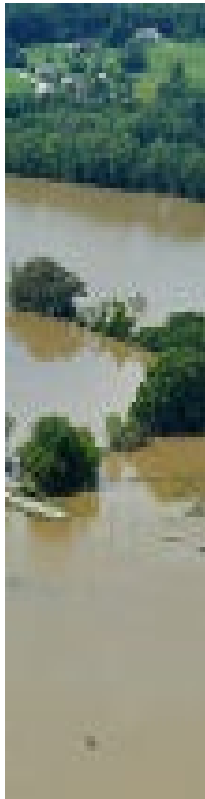
# QUESTIONS?

Contact:

[Brian.Loadholt@usda.gov](mailto:Brian.Loadholt@usda.gov)

[Terry.Foreman@usda.gov](mailto:Terry.Foreman@usda.gov)

[ra.nrcs.ncral.easementmonitoring@usda.gov](mailto:ra.nrcs.ncral.easementmonitoring@usda.gov)



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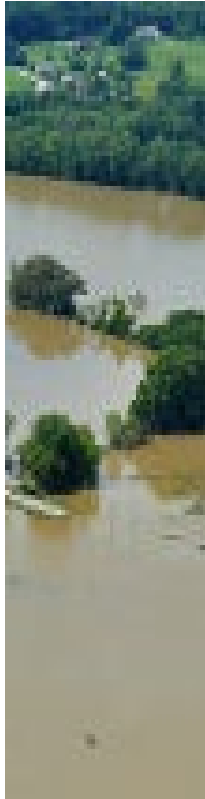
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# Easements 102



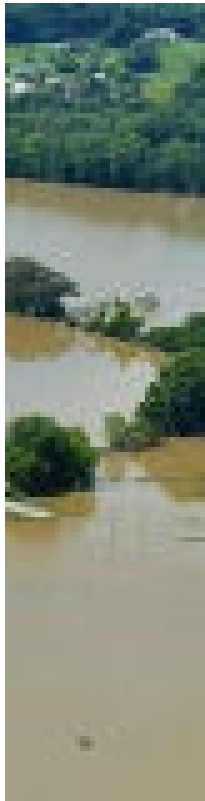
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# Cost Share Assistance and Match Requirements

- The Federal share is limited to 50 percent of the fair market value of the agricultural land easement.
- The eligible entity must provide a non-Federal share in an amount that is at least equivalent to the Federal share.
- Therefore, for general ALE enrollments, the amount that may be provided as the Federal share may not exceed the lesser of 50 percent of the fair market value of the agricultural land easement or an amount equivalent to the non-Federal share provided by the eligible entity.



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**Note:** These footnotes are abbreviated. Full text is found in NRCS Conservation Program Manual 440 528.43 B3.



# NRCS-CPA-41A

## ENTITY APPLICATION for an AGRICULTURAL LAND EASEMENT (ALE) AGREEMENT 02/2020

### Section D: Easement Value and Compensation Costs and Non-Federal Share Information

*These values may be estimates, subject to the final values being determined by an NRCS-approved appraisal report or easement valuation methodology.*

| 1. Easement Value and Compensation Costs   |      |
|--|------|
| A. Estimated Fair Market Value of the ALE  | \$   |
| B. Estimated Eligible Entity Cash Contribution <sup>x</sup> - for payment of easement compensation to the landowner <i>(excluding Landowner Donations)</i>   | \$   |
| C. Requested Federal Share for the ALE<br><ul style="list-style-type: none"> <li>• <b>General ALE:</b> Federal Share cannot exceed 50% of Item A</li> <li>• <b>ACEP-ALE-GSS:</b> Federal Share cannot exceed 75% of Item A</li> </ul>  | \$   |
| D. Estimated Purchase Price <sup>xi</sup> of the ALE ( $D = B + C$ )   | \$ 0 |
| E. Estimated Landowner Donation toward easement value <sup>xii</sup><br><i>(generally, <math>E = A - D</math>)</i>   | \$   |
| F. Remaining Non-Federal Share needed to meet minimum requirement<br><ul style="list-style-type: none"> <li>• <b>General ALE:</b> (<math>F = C - (B+E)</math>)</li> <li>• <b>ACEP-ALE-GSS:</b> (<math>F = (A-C) - (B+E)</math>)</li> </ul> <i>(If Item (F) <math>\leq</math> \$0, enter \$0 here, Boxes 2 and 3 do not need to be completed, proceed directly to Box 4. If Item (F) <math>&gt;</math> \$0, enter the amount of Item (F) here and complete Boxes 2, 3, and 4 as instructed below)</i> | \$   |

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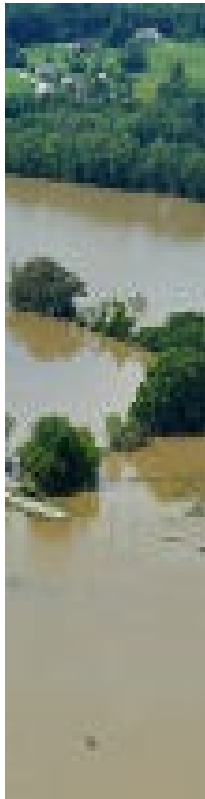


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