Agricultural Land Easements
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)
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.
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
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.
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
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)
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.
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.”
<table>
<thead>
<tr>
<th>Contribution Source</th>
<th>$500,000</th>
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<td>Procured costs paid by entity iii</td>
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<td>$30,000</td>
<td>$20,000</td>
<td>Not included</td>
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<tr>
<td>Stewardship monitoring costs iv</td>
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<td>$10,000</td>
<td>Not included</td>
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<tr>
<td>Total Non-Federal Share</td>
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<td>$250,000</td>
<td>$200,000</td>
<td>$400,000</td>
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<tr>
<td>Total Federal Share</td>
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<tr>
<td>Eligible Entity Cash Contribution (% of FMV)</td>
<td>20%</td>
<td>4%</td>
<td>14%</td>
<td>40%</td>
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</table>
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.
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
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
Terry.Foreman@usda.gov
ra.nrcs.ncral.easementmonitoring@usda.gov
Easements 102
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.
## Fair Market Value (FMV)

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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.

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<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>1. Easement Value and Compensation Costs</td>
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</tr>
<tr>
<td>A. Estimated Fair Market Value of the ALE</td>
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<tr>
<td>B. Estimated Eligible Entity Cash Contribution(^a) - for payment of easement compensation to the landowner (excluding Landowner Donations)</td>
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<tr>
<td>C. Requested Federal Share for the ALE</td>
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<tr>
<td>- General ALE: Federal Share cannot exceed 50% of Item A</td>
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<tr>
<td>- ACEP-ALE-GSS: Federal Share cannot exceed 75% of Item A</td>
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<tr>
<td>D. Estimated Purchase Price(^d) of the ALE ((D = B + C))</td>
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<tr>
<td>E. Estimated Landowner Donation toward easement value(^e) ((generally, E = A - D))</td>
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<tr>
<td>F. Remaining Non-Federal Share needed to meet minimum requirement</td>
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<tr>
<td>- General ALE: ((F = C - (B+E)))</td>
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<tr>
<td>- ACEP-ALE-GSS: ((F = (A-C) - (B+E)))</td>
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</tr>
<tr>
<td>(\text{If Item (F) \leq 0, enter } 0\text{ here, Boxes 2 and 3 do not need to be completed, proceed directly to Box 4. If Item (F) &gt; 0, enter the amount of Item (F) here and complete Boxes 2, 3, and 4 as instructed below})</td>
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