

## 2015 ACEP-ALE SUMMARY

### **I: Land Eligibility**

- Privately owned
- Subject to written pending offer (can be in the form of a P&S, letter of commitment, etc.). A pending offer may document a landowner's intent to sell the easement without a commitment to a purchase price (as many offers are made before the appraisals are completed).
- Meets one of the following criteria:
  1. Contains 50% or more prime, statewide, or locally important farmland
  2. \*Contains historical or archaeological resources (listed in the national or state register of historic places, formerly determined eligible for listing, or included in the SHPO inventory with written justification as to why it's eligible for national or state listing). \*Note: Parcels qualifying under the historic or archaeological resources criteria must have the protection of these resources documented in the conservation easement deed.
  3. Protection of the land will further a state or local policy consistent with the purposes of ACEP-ALE (a Town Master Plan that has a specific section about farmland preservation is adequate). The local purposes of the local policies furthered by ALE enrollment must be referenced in the easement deed.
- Contains a maximum of 66% forestland, however, the STC may waive the 2/3 forestland requirement if NRCS determines that some or all of the forestland is actively managed as sugar bush that contributes to the economic viability of the farming operation.
- NRCS may contribute ALE funds to a portion of a larger easement where the overall forestland exceeds 2/3 of the easement area, as long as the ALE easement is a subcomponent of the larger easement, and the NRCS funds are only used to procure the easement on the ALE-eligible portion of the larger parcel.

### **II: Ranking**

- All ranking sheets (nationally) must be capped at a maximum of 400 points, with a minimum of 200 points addressing the following national ranking criteria:
  1. % prime, statewide, or locally important farmland
  2. % of non-forested land to be protected
  3. Ratio of total acres offered to the average farm size in the county
  4. Decrease in the % of acreage of farmland in the county between the last 2 USDA Census of Ag. reports
  5. % population growth in the county
  6. Population density as documented by the most recent U.S. Census
  7. Proximity of offered land to other protected lands
  8. Proximity of the offered land to agricultural operations and agricultural infrastructure
  9. Maximizing the protection of contiguous acres devoted to agricultural use
  10. Existence of a farm or ranch succession plan or similar plan established to address farm viability for future generations (a farm business plan, or written statement from the landowner documenting this has been discussed within the family is sufficient)

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- The remaining 200 points can be determined by state criteria (with input from the State Tech. Committee)
- Negative points can be assigned if the sponsoring entity is or has been:
  1. Delinquent in conducting annual monitoring, or whose monitoring reports are insufficient, late, or not provided to NRCS
  2. Has an existing FRPP or ALE agreement with funds remaining more than 2 years after the attachment execution date without any expenditures or actions toward closings of easements in the 3<sup>rd</sup> year

### **III: Entity Match Requirements**

- Entity cash match must be demonstrated at the time of application
- The federal share contributed may not exceed 50% of the NRCS-approved appraised FMV of the easement.
- The entity share must make up the remaining 50%, of which 25% can be charitable donation or qualified conservation contribution by the landowner.
- The STC can waive the 25% minimum entity cash contribution for Projects of Special Significance which meet one or more of the following criteria: (if a waiver is granted, the entity share is reduced to 25% of the federal share, or 12.5% of the appraised FMV of the easement)
  1. Listed on the National Register of Historic Places or is a traditional cultural property
  2. Located within a micropolitan statistical area and 50% of the adjacent land is agricultural land
  3. Located within a metropolitan statistical area
  4. Is an education or demonstration farm focused on agricultural production and natural resource conservation
  5. A farm operated for the purpose of increasing participation in agriculture and natural resource conservation by underserved communities, veterans, beginning farmers or ranchers, or disabled farmers or ranchers
  6. The subject of a conservation buyer transaction where a member of an underserved community, veteran, beginning farmer or rancher, or disabled farmer or rancher has a valid P&S agreement to acquire the property subject to an agricultural land easement
  7. Officially designated as having been in the same family ownership for over 100 years
- If a waiver is granted, the NRCS share will not exceed 50% of the appraised FMV, and the landowner must provide written documentation that the additional charitable donation is voluntary.

### **IV: Determining the Easement Purchase Price**

- The entity can use either the USPAP or Yellow Book appraisal standards
- The effective date of the appraised value must be within 6 months before or after the date the Cooperative Agreement is signed or an applicable amendment is executed identifying the parcel selected for funding, OR must be within 12 months of the easement closing date.

**V: Building Envelope**

- The future location of any building envelopes should be identified on the map attached to the deed.
- The agricultural land easement may allow building envelopes to be located after closing, if the deed specifies the number of floating building envelopes, and requires STC approval of the location prior to construction.

**VI: Subdivision**

- If the eligible entity wants to provide for the future subdivision of the protected property, then the agricultural land easement deed must identify the maximum number of parcels.
- Additionally, if the boundaries of the proposed subdivisions are identified and approved by the STC prior to closing, and both the approved number and boundaries are identified in the ALE deed, then **NO FURTHER REVIEW IS REQUIRED AT THE TIME OF FUTURE CONVEYANCE OF THE PARCELS AS IDENTIFIED IN THE DEED.**
- If the boundaries are not identified prior to closing, the eligible entity must submit a request to the STC for approval prior to authorizing the subdivision.
- The entity must certify that the requested subdivision is required to keep all farm and ranch parcels in production and viable for agricultural use, and that separate conveyance of the farm and ranch parcels subject to the agricultural land easement will move the land from one agricultural operation to the other. The STC must determine that:
  1. Parcels resulting from subdivision will meet ACEP-ALE land eligibility requirements as enacted on the date the original parcel was enrolled, AND
  2. The resulting parcels will not be below the median size of farms in the county as determined by the most recent USDA NASS data

**VII: The Agricultural Land Easement Plan (ALEP)**

- All ALE easements must have an ALEP in place prior to closing.
- The entity may request NRCS prepare the plan, or the entity may prepare the plan themselves.
- If NRCS is selected to prepare the plan, it must be determined at the time of application and contained in the Cooperative Agreement.
- If a third party develops the ALEP, it will be done at the eligibility entity's expense.
- At a minimum, all ALEPs must contain the following:
  1. Describe the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired – this MAY include a farm or ranch succession plan.
  2. Identify the required and recommended conservation or management practices that address the resource concerns for which the parcel was selected, such as those identified on the ALE ranking sheet, the land eligibility determinations (cultural, historic, furthers state or local initiative, grassland of special significance, etc.).
  3. Establish a limit on the impervious surfaces to be allowed, consistent with the farm management system and the limitations identified in the deed.
  4. If the parcel contains grassland, highly erodible land (HEL), or forest land, a component plan must be incorporated by referenced into the ALEP. Conservation or management practices or

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activities included in an attached component plan do not need to be identified separately in the ALEP.

- Component plans must be developed for each land use type present on the parcel as follows:
  1. A grassland management plan is required if the parcel meets land eligibility criteria under grasslands eligibility.
  2. A conservation plan is required if the parcel contains HEL
  3. A forest management plan is required for parcels with greater than 40 acres or 20% of the easement area in contiguous forested cover.
- Land enrolled in an agricultural land easement remains eligible for enrollment in other USDA conservation programs, including:
  - AMA
  - CRP
  - CSP
  - EQIP
  - RCPP

### **FOR MORE INFORMATION CONTACT:**

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**Updated Fiscal Year (FY) 2015 Timeline for ACEP: Entering into New Agreements and Obligations**

<b>ACEP FY 2015 New Enrollment Actions</b>	<b>Completion Date*</b>	<b>Notes</b>
ACEP regulations, policy and FY 2015 guidance published. FY 2015 ACEP FA allocations provided to States.	On or about - March 15, 2015	Enter SCIMS and NEST data as soon as possible for all eligible applications.
States review all ACEP regulations, policy and FY 2015 guidance. Prepare State materials and updates as needed.	March 24, 2015	
States announce availability of ACEP funding and any FY 2015 application cutoff dates.	April 1, 2015	States are strongly encouraged to conduct ranking and eligibility determinations as soon as applications are received.
Update State ranking criteria and documents as needed to address new program requirements.	April 1, 2015	Post updated materials to State Web sites and <a href="#">EPD SharePoint site</a> .
<b>National ACEP application cutoff for FY 2015 funding consideration.</b>	<b>May 15, 2015</b>	States may establish earlier cutoff dates based on workload but must provide at least 30 days from the announcement of fund availability
<b>States complete initial eligibility determinations and ranking.</b> <b>Enter all eligible applications into NEST, including ALE funded and substitute parcels.</b>	<b>June 12, 2015</b>	All eligible applications received by the application cutoff date must be ranked and prioritized. Ranking scores for eligible applications must be input into NEST.
<b>Identify projects tentatively select for funding for FY 2015.</b> <b>Begin procuring due diligence and easement valuation items.</b> <b>Begin Preliminary restoration planning on WREs.</b>	<b>June 19, 2015</b>	Procure environmental record search for WRE and ALE, preliminary title reports for WRE only, and individual USPAP appraisals for WRE only, if needed.  Procure FY 2016 AWMA for WRE if needed.
Submit ACEP waiver request packages requiring NHQ review (24 month ownership), and any new ACEP-WRE exhibit E's. Submit information to NBST for easement acquisition funds reservation in FMFI.	June 26, 2015	Packages will be reviewed in the order submitted. Earlier submittal allows for faster review. Late or incomplete packages will not be reviewed until after completed packages as time allows.
For applications that require national-level internal control review: Complete State-level first- and second-level reviews and upload documents and submit NEST maintenance request for national-level internal control review.	July 3, 2015	All required documents for applications with obligations above the national-level review threshold must be uploaded into NEST by this date. Earlier submittal allows for faster review. Internal Controls reviews can be done concurrently with any NHQ waiver and cooperative agreement reviews.
Upload draft, unexecuted ACEP-ALE cooperative agreement to the <a href="#">Cooperative Agreement Review Tool</a> .	July 10, 2015	Agreements above the national review threshold must be submitted to Grants and Agreements for review.
Contracts in place for FY 2016 AWMA for ACEP-WRE.	July 24, 2015	States that will use an AWMA for ACEP-WRE in FY 2016 have the contract in place by July 24, 2015 and notify EPD by July 31, 2015
Complete onsite reviews and reviews of due diligence and title search documents to make final determinations regarding eligibility and enrollment or deferral for FY2015.	August 10, 2015	If hazardous substance issues, title or access issues, onsite or offsite issues, or ALE cooperative agreement or deed terms issues are identified that present eligibility concerns that cannot be readily resolved by the landowner or ALE entity, the application must be deferred or determined ineligible accordingly.
Approved ACEP-ALE cooperative agreements, ACE-WRE exhibit E's, NHQ ACEP waiver decisions, and National level IC review results returned to States.	August 10, 2015	States will be notified of late, incomplete, or non-compliant submittals that must be deferred until FY 2015.
Complete all State-level first- and second-level internal control reviews. States issue offers of enrollment (agreements) to selected eligible landowners and eligible entities.	August 17, 2015	For projects that do not require NHQ review, States may issue offers earlier with notice to the applicant that NRCS will only execute agreements after eligibility determinations and preliminary due diligence reviews are satisfactory and completed.

Complete Preliminary WRPOs and cost estimates for WRE. All funds reservation requests to NBST for subsequently selected applications.		
Complete enrollment activities, submit information to NAPST for obligation of funds in FMMI, and create agreements in NEST.	September 4, 2015	States must provide obligating documents to the NAPST.
States complete NEST entry of all FY 2015 ACEP applications, selected and not selected.	September 18, 2015	All application statuses must be set as outlined in applicable NEST guidance.
Final obligation deadline.	September 24, 2015	
Submission of FY 2016 easement compensation packages for ACEP-WRE to the <a href="#">EPD SharePoint site</a> .	October 1, 2015	FY 2016 ACEP-WRE easement compensation packages must be submitted by all States, regardless of whether AWMA or individual USPAP appraisals will be used.

\* States are encouraged to complete ACEP new enrollment actions as soon as possible, but at a minimum the actions described (including the preparation, submission, review, or execution of all required documentation) must be completed by the identified completion date.