



United States Department of Agriculture

# Eligible Entity Certification

*An informative guide to becoming an eligible entity for ACEP-ALE*

This information is subject to change upon release of NRCS Policy Guidance on Entity Certification under the ACEP Final Rule, which is expected in Summer 2021.



## What is an eligible entity?

An eligible entity is an agency of a state or local government, an Indian Tribe, or a non-profit/nongovernmental organization organized for the purpose of land preservation and who has the authority to purchase and hold agricultural land easements. Eligible entities have an established agricultural land protection program that purchases easements and have demonstrated a commitment to the long-term conservation of agricultural lands through their ability to acquire, manage, and enforce easements and their ability to adequately steward conserved lands.

## What does it mean for an eligible entity to become certified with NRCS?

NRCS employs a national certification process through which eligible entities may receive administrative flexibility when participating in ACEP-ALE. The ACEP-ALE agreement with certified entities will contain the terms that specifically authorize the administrative flexibilities provided. In general, however, these flexibilities include:

- Agreement lengths of up to 7 fiscal years.
- Use of own terms and conditions in the ALE deed. However, the deed must include the standard U.S. right of enforcement clause and address the ACEP-ALE regulatory deed requirements.



- Ability to close an ACEP-ALE easement without NRCS needing to review the deed, title, title policy commitment, appraisal, or other specific due diligence documentation such as internal controls processes.

## What are the overall benefits of becoming certified?

- 1.** Extended agreement periods. The ACEP Final Rule (released in February 2021) specifies that certified eligible entities may enter 7-year agreements with NRCS.

- 2.** A shortened acquisition process. NRCS does not need to review due diligence documents (e.g., appraisal, title, draft deed), nor do they need to communicate title instructions for ACEP-ALE funded easements. Also, there is no Internal Controls (IC) Review process for easements, and the State Conservationist does not need to submit a letter of approval for the acquisition to proceed. Essentially, weeks, if not months, are removed from the acquisition and closing timeline.



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## How do I know if my land trust is eligible for certification?

The first step is to ensure you are an eligible entity. The secondary step is to confirm that the land trust has evidence that demonstrates:

- Efficiency in closing five or more ACEP-ALE, Farm and Ranchlands Protection Program (FRPP), or Farmland Protection Program (FPP) funded easements over the most recent 5-year period. Easements that have closed within the last 24 months are ideal.
- Capacity for adequately monitoring all ACEP-ALE, FRPP, or FPP funded easements on an annual basis and to NRCS standards.
- Ability to address violations promptly.
- Agreement with NRCS easement valuation methodologies.
- Agreement to the use of the published ACEP-ALE grant agreement for certified entities.
- Accreditation through the Land Trust Alliance Accreditation Commission (LTAC) is in good standing.
- Acquisition, management, and adequate stewardship of 10 or more ACEP-ALE, FRPP, or FPP funded easements in good standing.

*Note: There are exceptions to some of these prerequisites. Consult the ACEP manual and Entity Certification policy guidance under the ACEP Final Rule for more information.*

## How do I apply on behalf of my land trust?

Eligible land trusts must submit a written request for certification along with the following documentation to their State Conservationist:

1. Cover letter.
2. List of states in which land trust is seeking certification.
3. List of 10 most recently closed ACEP-ALE, FRPP, or FPP funded conservation easement transactions with the final policy of title insurance for each. Five of these easements are further reviewed to evaluate efficiency in closing.
4. Evidence of ability to enforce easement deed provisions.
5. Evidence that the land trust is accredited through LTAC and that accreditation is in good standing.
6. Statement on whether or not the land trust was awarded accreditation subject to "expectations for improvement."
7. A statement that the land trust will seek renewal of accreditation for the duration of any active ACEP-ALE agreements.
8. A statement that the land trust will notify NRCS immediately upon changes to accreditation status.





## Who determines certification status?

The State Conservationist reviews the materials submitted by an eligible land trust requesting certification. Based on the review, the State Conservationist may recommend the land trust for certification to the NRCS Regional Conservationist. The final determination on certification approval rests with the Regional Conservationist. The Regional Conservationist will notify the land trust of the final decision in writing and send a copy of the decision to the State Conservationist.

## How long does the certification process take?

Each request is unique and will be reviewed to the level of detail required. To enhance efficiency, make sure your request package is complete and that you receive notification that NRCS received your package. Upon receipt, the State Conservationist will assemble and review NRCS records to verify the certification requirements have been met and prepare necessary supporting documentation.

## When can I apply for certification?

Eligible land trusts may submit a written request and supporting documentation to the State Conservationist at any time during the year. However, it is advised that land trusts wait until policy guidance for Entity Certification under the ACEP Final Rule is released by NRCS to better understand eligibility and the application process. NRCS expects to release policy guidance during Summer 2021.

## Is certification retroactive?

No, a land trust that becomes certified is still subject to the terms of existing agreements. However, if the land trust has unclosed pending parcels identified as selected for funding under an existing ACEP-ALE agreement executed in FY19 or later, the land trust may request to transfer these parcels and the associated funds to a new ACEP-ALE agreement for certified entities. Land trusts have 90 days to notify NRCS of such requests following receipt of written notice of certification.

## How long does certification last?

Certification remains effective for the duration of the Farm Bill under which certification was approved and for the duration of an executed program agreement unless the land trust is decertified. NRCS will conduct an annual quality assurance review to determine certification status. This review ensures the certified land trust continues to meet the certification requirements. As long as the land trust continues to meet the criteria, it will remain certified.

## Can a land trust become certified in multiple states?

Yes! Land trusts may become certified in multiple states. They will submit the request package to the State Conservationist for the state in which they have completed the greatest number of FFP, FRPP, or ACEP-ALE easements and will need to list all the states for which they seek certification. Land trusts seeking multi-state certification must demonstrate the ability to address state-specific conservation easement requirements for each state listed. The lead State Conservationist will complete the necessary actions to review the request and will notify the Regional Conservationist and other affected State Conservationists of the request and review outcomes.

## Can a land trust apply for certification more than once?

Yes! If the State Conservationist or the Regional Conservationist determines that a land trust does not meet certification requirements, written notification of that decision, including identifying the reasons for denying certification, will be sent to the land trust. The State Conservationist or Regional Conservationist may invite the land trust to resubmit its application after addressing the criteria identified in the denial.

## Can a land trust lose its certification status?

Yes. In the event that NRCS finds that the certified land trust does not meet requirements during the annual quality assurance review, NRCS will provide a letter to the land trust identifying the deficiencies, required corrective actions, and the period to complete those actions. Decertification may result if the deficiencies are not corrected to NRCS's satisfaction. Also, NRCS may require the return of easement acquisition cost-share funds and terminate the grant agreement.





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## Where can I find more information?

General information regarding entity certification can be found in Subpart H of the Conservation Program Manual (CPM) 440.528 ACEP-ALE manual along with the policy guidance for Entity Certification under the ACEP Final Rule. For specific information, consult your NRCS state office.

## Washington State Entity Certification

Eligible entities seeking certification in Washington State must submit their request and supporting documentation via mail and email.

Please address **mailed requests** to:

**Roylene Comes at Night**  
Washington State Conservationist

USDA Natural Resources Conservation Service  
11707 E Sprague Ave, Suite 301  
Spokane Valley, WA 99206

Please address **emailed requests** to:

**Roylene Comes at Night**  
[Roylene.comes-at-night@usda.gov](mailto:Roylene.comes-at-night@usda.gov)

cc: **Carlee Elliott**  
[Carlee.Elliott@usda.gov](mailto:Carlee.Elliott@usda.gov)

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