



October 17, 2022

Implementation Guidance for the Agricultural Conservation Easement Program (ACEP) in Fiscal Year 2023 (FY23) for West Virginia.

Action Required By:

- **November 18, 2022 – ACEP Application Cut-Off** – Complete Applications Due by Applicant Eligible Entities.
- **January 13, 2023 – Due Date for NRCS Staff to Complete Landowner Disclosure and HazMat Worksheets, Onsite Ranking, and Easement Business Tools Application Data Entry.**
- **April 28, 2023 – ALE and WRE landowners and landowner entities must be in appropriate COC, AGI, and HEL/WC statuses to remain in consideration for FY23 funding.**
- **June 30, 2023 – North Area FRPP and ACEP ALE Monitoring Due Date for Eligible Entities.**
- **August 4, 2023 – South Area FRPP and ACEP ALE Monitoring Due Date for Eligible Entities.**

Purpose: To provide guidance for implementing the ACEP program in FY23 and easement monitoring on prior acquisitions.

The Agricultural Improvement Act of 2018 (the “2018 Farm Bill”) was signed into law on December 20, 2018, and continued authorization for ACEP. The 2018 Farm Bill also maintained NRCS’s authorization to continue to implement and administer existing Farm and Ranch Lands Protection Program (FRPP), Grassland Reserve Program (GRP), and Wetlands Reserve Program (WRP) contracts, agreements, and easements.

The guidance provided here is in lieu of forthcoming guidance from NRCS National Headquarters (NHQ) specific to FY23 and therefore subject to possible updates. As such, updates to applications may be necessary at a later time. Be assured NRCS WV will work diligently to communicate any new requirements or procedures as effectively and efficiently as possible.

ACEP enrollment agreements including, but not limited to, Wetland Reserve Easement (WRE) purchase agreements, ALE agreements, easement deeds and deed terms, including WRE warranty easement deeds, and Agricultural Land Easement (ALE) regulatory deed requirements and associated minimum deed terms, are Farm Bill specific. Therefore, enrollments under the 2014 Farm Bill must use the versions of the enrollment and easement documents approved for



use under the 2014 Farm Bill. Similarly, enrollments under the 2018 Farm Bill must use the versions of the enrollment and easement documents approved for use under the 2018 Farm Bill.

ACEP ALE & RCPP ALE Applications

Applications for ALE are only accepted from Eligible Entities. Eligible Entities include state or local units of government, Indian Tribes, or Non-Governmental Organizations (NGOs) such as a conservancy or a land trust. Applications from individual landowners are not accepted. Eligible Entities can access the complete application materials and instruction guides at the [NRCS WV ACEP ALE web page](#). The FY23 ACEP ALE ranking criteria will also be available at this web page no less than 30 days before the application cutoff date. **The ACEP ALE and RCPP ALE Application Guidance document, attached to this notice and also available on the web page, must be followed for all ALE applications in FY23.**

Eligible Entities must have a [DUNS](#) number along with an active registration in [SAM.gov](#). NRCS will accept only electronic submissions. All application materials from Eligible Entities must be e-mailed to the Easements Inbox (NRCS.WVEasements@usda.gov) by the application cutoff date. A complete application is one that is submitted on the appropriate forms, filled out accurately and completely, accompanied by all required supporting documentation outlined in the **ACEP ALE and RCPP ALE Application Guidance document**, and signed by all required parties. Only properly completed and executed applications submitted by the application cutoff date will be considered for funding in FY23. NRCS Field Office (FO) Staff should work with local Eligible Entities to help them complete the application packages. As necessary, FO Staff should assist them with generating the maps required in the ACEP ALE and RCPP ALE Application Guidance document. **Example maps are available on the [NRCS WV ACEP ALE web page](#) and must be utilized as a guide to creating acceptable map products.**

Following the application cutoff date, NRCS FO Staff will conduct onsite ranking, preliminary planning, due diligence (i.e., Landowner Disclosure Worksheet, Hazardous Materials Field Inspection Checklist, and Hazardous Materials Landowner Interview), and enter all ACEP ALE and RCPP ALE applications in the appropriate NRCS Business Tools. These Business Tools include, but are not limited to: ProTracts for ACEP ALE, Conservation Desktop (CD) for ACEP ALE and RCPP ALE, the Conservation Assessment Ranking Tool (CART) for ACEP ALE and RCPP ALE, and the Document Management System (DMS) for ACEP ALE. National Easement Staging Tool (NEST) data for RCPP ALE applications will be entered by State Office (SO) Easement Staff. **See attached for the ACEP ALE and RCPP ALE application process tentative timeline. Please note this timeline is tentative and therefore is subject to change. Also, please note:**

- **All eligible NRCS easement program applications are assessed and ranked in CART.** Incomplete and/or ineligible ACEP ALE and RCPP ALE applications will not be ranked.
- **NRCS WV prohibits subdivision of protected properties enrolled in ACEP ALE and RCPP ALE.** Therefore, applications requesting subdivision will be considered incomplete due to inconsistency with NRCS WV policy.

- **NRCS WV requires the number of residential dwellings/retained development rights to be identified at the time of application;** and the location of residential dwellings/retained development rights to be identified before closing. **Locating residential dwellings/retained development rights after closing (i.e., “floating development rights”) is not permitted.**
- If there is an exception to the easement not contiguous to the boundary and/or not owned by the applicant (i.e., an “in-holding”), **the State Conservationist requires that in-holding, and access to that in-holding, to be surveyed out prior to making application to NRCS WV.** The new boundary survey, and evidence of ownership to the in-holding if necessary, must be included in the application packet otherwise the application will be considered incomplete.

ACEP ALE & RCPP ALE Enrollments

For each parcel, the Eligible Entity must **review for local acceptability** and then send to NRCS:

1. An electronic copy of the appraisal report.
 - a. Please note the NRCS Specifications and Scope of Work for Appraisals of Real Property are an Exhibit to every ALE agreement. Eligible Entities must provide these documents to their appraisers.
2. An electronic copy of the title commitment **and all the underlying documents.**
 - a. Including a summary of the findings and draft instruments needed to clear title.
3. A new boundary survey plat and legal description(s) to State survey standards.
 - a. This will include the location of, and access to, residential and retained development rights areas.
 - b. If NRCS determines an older survey plat and legal description(s) to be acceptable then a new survey may not be required.
4. A map of the existing and proposed farmstead complex areas.
 - a. Please note that farmstead complex areas should not be excessively large and should be limited in number. Generally, these areas should be located near existing farm roads or travel ways. Existing farm structures shall be included.
5. An electronic copy of the draft baseline documentation report.
6. A Forest Management Plan, as applicable.
 - a. According to the NRCS NHQ approved template deed for WV, easement property with contiguous forest that exceeds the greater of 40 acres or 20 percent of the easement area will have a current forest management plan that is subject to approval by the Grantee and NRCS. Please contact the Easements Inbox (NRCS.WVEasements@usda.gov) for a copy of the NRCS Easement Forest Management Plan Criteria.
7. An electronic copy of the Agricultural Land Easement Deed.
8. Other supporting documentation as necessary to complete the easement transaction (e.g., draft subordination agreements, releases, affidavits, maps, signature authority documentation, Confirmation of Matching Funds, Closing Agent Requirements, Closing Protection Letter, Settlement Statement, Direct Deposit Forms for the Eligible Entity and Closing Attorney, Easement Payment Application, etc.).

For each parcel, NRCS WV will:

1. Conduct an NRCS check of the appraisal and then, if acceptable, procure an Appraisal Technical Review. NRCS WV will provide the Eligible Entity with notification of the acceptability of the appraisal per the NRCS check, information on the changes needed to meet the NRCS Specifications and Scope of Work for Appraisals of Real Property, or the Appraisal Technical Review results, as applicable.
2. Examine the title commitment, all the underlying documentation, and any associated draft instruments necessary to clear title. NRCS WV will provide the Eligible Entity with notification of the acceptability of the title commitment's Requirements and Exceptions or information on remaining title issues that must be remedied.
3. Review the boundary survey plat and legal description(s). NRCS WV will notify the Eligible Entity whether the survey plat and legal description(s) are approved or if additional changes are needed.
4. Review the map of existing and proposed farmstead complex areas. NRCS WV will notify the Eligible Entity whether the map is approved or if additional changes are needed.
5. Review the draft baseline documentation report. NRCS WV will notify the Eligible Entity whether the baseline is approved or if additional changes are needed.
6. For easements enrolled under the 2018 Farm Bill, all parcels that contain cropland that is Highly Erodible Land (HEL) must have a Conservation Plan developed by NRCS or an NRCS-certified conservation planner. For easements enrolled under the 2014 Farm Bill, the Agricultural Land Easement Plan will be completed by NRCS or an NRCS-certified conservation planner.
7. Review the Forest Management Plan, as applicable. NRCS WV will notify the Eligible Entity whether the Forest Management Plan is approved or if additional changes are needed.
8. Review the Agricultural Land Easement Deed for conformance to policy and required deed terms. NRCS WV will provide the Eligible Entity with notification of the acceptability of the Agricultural Land Easement Deed or a list of changes needed to meet ALE program purposes.
 - a. NRCS WV will forward Agricultural Land Easement Deeds to NHQ for review when NHQ review is required per policy.
9. Prior to closing, NRCS WV will conduct all state-level Internal Controls (IC) reviews and will forward easement documentation to NHQ for national IC review as required by policy. NRCS WV will provide the Eligible Entity with notification of approval to close the Agricultural Land Easement along with the closing instructions or whether additional matters need addressed in order to obtain approval to close.

Within 30 days of recordation or with the request for reimbursement, whichever is sooner, the Eligible Entity must provide NRCS WV a copy of the:

1. **Recorded Agricultural Land Easement Deed.**
2. **Any recorded clearance documents** (e.g., subordination agreements, releases, affidavits, etc.).
3. **The final title policy of insurance.**

ACEP WRE Applications

Recommendations regarding the Geographic Area Rate Cap (GARC) for WRE enrollments were provided to the WV State Technical Committee and the NRCS WV State Conservationist by a subcommittee of the WV State Technical Committee and submitted to NHQ, Easement Programs Division (EPD), for final approval. Following final approval, the GARC will be published at the [NRCS WV ACEP WRE web page](#) along with the already posted application materials and instruction guides. The FY23 ACEP WRE ranking criteria will also be available on the webpage no less than 30 days before the application cutoff date. **The WRE Application Checklist document attached to this notice, and also available on the web page, must be followed for all WRE applications in FY23.**

Previously, landowners and producers that are legal entities (operating under an Employee Identification Number (EIN)) that participate in WRE were required to have a [DUNS](#) number along with an active registration in [SAM.gov](#). However, the Consolidated Appropriations Act of 2018 exempted WRE from this requirement. As such, landowner entities applying to WRE do not need to have a [DUNS](#) number or active [SAM.gov](#) registration.

NRCS will accept only electronic submissions. All application materials must come from NRCS FO Staff and must be e-mailed to the Easements Inbox (NRCS.WVEasements@usda.gov) by the application cutoff date. A complete application is one that is submitted on the appropriate forms, filled out accurately and completely, accompanied by all required supporting documentation outlined in the **WRE Application Checklist document**, and signed by all required parties. Only properly completed and executed applications submitted by the application cutoff date will be considered for funding in FY23. FO Staff should work with landowners to help them complete the application package for submission. **As necessary, FO Staff should assist them with creating the maps required in the WRE Application Checklist document and in determining land uses and acreages. Example maps are available upon request and must be utilized as guide to creating acceptable map products.**

Following the application cutoff date, NRCS FO Staff will conduct onsite land eligibility evaluations, ranking, preliminary planning, due diligence (i.e., Landowner Disclosure Worksheet, Hazardous Materials Field Inspection Checklist, and Hazardous Materials Landowner Interview), and enter all ACEP WRE applications in the appropriate NRCS Business Tools. These Business Tools include, but are not limited to, both CD and CART. NEST data for ACEP WRE applications will be entered by SO Easement Staff. **See attached for ACEP WRE application process tentative timeline. Please note this timeline is tentative and therefore subject to change. Also, please note:**

Note:

All eligible NRCS easement program applications are assessed and ranked in CART. Incomplete and/or ineligible ACEP WRE applications will not be ranked.

The remainder of this guidance applies to all NRCS WV easement programs

Persons and legal entities applying for NRCS programs must complete form CCC-902, "Farm Operating Plan," along with all Farm Service Agency (FSA) required information for County

Office Commission (COC) determinations, and remit to the local FSA Office promptly unless already in a “filed” or “determined” status. Existing participants must also file the same if not already in a “filed” or “determined” status according to FSA records.

In addition, please also complete and submit form AD-1026, “Highly Erodible Land Conservation (HEL) and Wetland Conservation (WC) Certification” and form CCC-941 “Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information” to the local FSA Office also as soon as possible.

- **COC, AGI, and HEL/WC determinations must be in their appropriate statuses for the fiscal year of enrollment (FY23).**
- **Landowners of all types will be evaluated for landowner eligibility (i.e., appropriate COC, AGI, and HEL/WC statuses) by NRCS WV State Office (SO) Staff beginning Friday, April 28, 2023. Those that have not filed or are in an otherwise ineligible COC, AGI, or HEL/WC status on this date will be removed from consideration for FY23 funding.**

Easement Mineral Policy

As part of the application process for Farm Bill conservation easement programs, NRCS WV will require a determination of mineral ownership and, **if severed from surface ownership**, will require one of the following methods of potential remediation:

1. Surface owner purchases the mineral interests for the easement area and submits supporting documentation (e.g., the deed for the mineral interests) as part of the application to NRCS WV. This supporting documentation must show the transaction has been recorded.
2. Development and recordation of legal instrument(s) that subordinate the mineral interests, and any rights for exploration or production of minerals that would result in surface disturbance, of the proposed easement area. A copy of the recorded document must be submitted to NRCS WV for review and approval as part of the application packet.
 - a. A geologic resource assessment that shows the likelihood of production of minerals on the proposed easement area is so remote as to be negligible may be required as supporting documentation for option number two (2) above. If necessary, a copy of this assessment must be obtained and submitted to NRCS WV for review and approval.

In addition to a determination of mineral ownership, the application and acquisition process for Farm Bill conservation easement programs in WV will also require a determination of whether the mineral rights are **under lease**. The following methods of potential remediation apply to mineral rights that have been leased:

1. Secure a signed and recorded release(s) of any leasehold(s), and its assigns, if any, and submit the documentation to NRCS WV for review and approval.

2. Develop and record an amendment to the lease(s), and its assigns, if any, that prohibits any mineral extraction from the surface of the easement area and prohibits the construction of any mineral extraction infrastructure on the easement area. A copy of the recorded document(s) must be submitted to NRCS WV for review and approval.
3. In the event that, following significant effort, a release(s) or an amendment(s) cannot be obtained, a draft affidavit of non-production regarding any leased mineral(s) can be submitted to NRCS WV for review and approval on an individual basis. This should be considered a last resort and attempts to acquire lease options one (1) or two (2) above should be sought first. If approved, the instrument must be signed and recorded at closing.
 - a. A geologic resource assessment that shows the likelihood of production of minerals from the proposed easement area is so remote as to be negligible may be required as supporting documentation for lease options two (2) and three (3) above. If necessary, a copy of this assessment must be obtained and submitted to NRCS WV for review and approval.

The exploration, development, mining or extraction of minerals, oil, gas, or any other hydrocarbon substance from NRCS WV conservation easements is prohibited. This means no oil or gas drilling can take place on conservation easements, nor can any oil or gas infrastructure (including roads) be placed on conservation easements which have been purchased using federal funds. Therefore, the aforementioned documents will be reviewed and their sufficiency in meeting ACEP requirements will be determined by NRCS WV.

Easement Monitoring

All closed easements must be monitored and entered in NEST prior to September 30, 2023.

Easements closed in FY23 will be first monitored next year (i.e., FY24). Non-stewardship easements are those held in the name of the Eligible Entity and must be monitored by the Eligible Entity. NRCS may accompany the Eligible Entity at their request during an onsite monitoring. NRCS does not conduct its own monitoring of these easements unless NRCS determines it must exercise the United States Right of Enforcement or to review highly erodible cropland plans. NRCS Staff must contact Matthew Oliver, State Easement Specialist, if monitoring activities for a non-stewardship easement are potentially needed. NRCS Staff are responsible for monitoring stewardship easements annually. Stewardship easements are those held in the name of the United States.

The Annual Monitoring Worksheet (AMW) is available at the [NRCS WV ACEP web page](#). NRCS Staff must use the AMW. **Eligible Entities may use the AMW or they may create their own worksheet, but this worksheet must definitively answer all questions necessary to accurately report the condition of the easement.** Please note there is a key question on the AMW asking whether the Conservation Plan, or the ALE Plan, as applicable, needs updated due to a change in ownership or agricultural management system. Photo documentation is encouraged as part of the monitoring report.

All monitoring worksheets (whether the AMW or an Eligible Entity's equivalent) from Eligible Entities will be e-mailed to the Easements Inbox (NRCS.WVEasements@usda.gov) by the dates below. SO Easement Staff will enter the monitoring worksheets in the appropriate NRCS Easement Business Tool. To reduce workload at the end of the FY, monitoring worksheets should be submitted throughout the year. It is the responsibility of the Eligible Entity to ensure that all monitoring reports are submitted by these dates:

- **All North Area FRPPs, ACEP ALEs, and RCPP ALEs should be monitored by June 30, 2023**
 - This includes Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Monongalia, Marion, Preston, Doddridge, Harrison, Gilmer, Lewis, Taylor, Barbour, Tucker, Upshur, Randolph, Pendleton, Grant, Hardy, Mineral, Hampshire, Morgan, Berkeley, and Jefferson Counties.
- **All South Area FRPPs, ACEP ALEs, and RCPP ALEs should be monitored by August 4, 2023**
 - This includes Wood, Ritchie, Wirt, Calhoun, Roane, Braxton, Clay, Nicholas, Webster, Pocahontas, Greenbrier, Monroe, Jackson, Mason, Putnam, Kanawha, Fayette, Raleigh, Wyoming, Cabell, Lincoln, Wayne, Boone, Logan, Mingo, McDowell, Mercer, and Summers Counties.

Follow-up actions will be addressed at a later date once all the monitoring worksheets are received.

Types of Reviews

Use this section to understand the monitoring schedules given below.

1. Offsite Review: requires a review of the governing documents (e.g., conservation easement deed, baseline document, conservation plan, final title policy, landowner authorizations, etc.), a review of the most recent aerial photography, and answer questions that are the same, or substantially similar to, questions 1, 3, and 4, found on the NRCS AMW.
2. Onsite Review: requires, at a minimum, a review of the governing documents (e.g., conservation easement deed, baseline document, conservation plan, final title policy, landowner authorizations, etc.), a review of most recent aerial photography, a field visit (contact landowner, or Eligible Entity for stewardship easements, in advance to coordinate), and answers to questions that are the same, or substantially similar to, **all** those found on the NRCS AMW. Include a map marking the location of any observations.

Monitoring Non-Stewardship Easements: FRPP, ACEP ALE, and RCPP ALE

FRPP easements (other than those funded during fiscal years 2006, 2007, and 2008) and ACEP ALE and RCPP ALE easements are considered “non-stewardship” easements because NRCS is not a grantee and holds only an enforcement right.

Non-Stewardship FRPP, ACEP ALE, & RCPP ALE
Five-year cycle:
Year 1: Eligible Entity Review.
Year 2: Eligible Entity Review.
Year 3: Eligible Entity Review.
Year 4: Eligible Entity Review.
Year 5: Eligible Entity Review.
(Repeat five-year cycle).

Monitoring Stewardship Easements: ACEP WRE, WRP, GRP, EWP FPE, and 2006-2008 FRPP

FRPP easements funded during fiscal years 2006, 2007, and 2008, ACEP WRE, WRP, GRP, and EWP-FPE easements are considered “stewardship” easements because NRCS is a grantee on the deed of easement.

ACEP WRE, WRP, GRP, EWP FPE	Stewardship FRPP (FY 2006-2008)
Pre-restoration: Onsite Review annually (NRCS Staff).	Five-year cycle:
Post-restoration: Year 1: Onsite Review (NRCS Staff).	Year 1: Onsite Review (NRCS/Entity).
Post-restoration: Year 2: Onsite Review (NRCS Staff).	Year 2: Eligible Entity Review.
Post-restoration: Year 3: Begin five-year cycle, Year 1:	Year 3: Eligible Entity Review.
Year 1: Onsite Review (NRCS Staff).	Year 4: Eligible Entity Review.
Year 2: Offsite Review (NRCS Staff).	Year 5: Eligible Entity Review.
Year 3: Offsite Review (NRCS Staff).	(Repeat five-year cycle).
Year 4: Offsite Review (NRCS Staff).	
Year 5: Offsite Review (NRCS Staff).	
(Repeat five-year cycle).	

If you have any questions or need additional information, please contact Matthew Oliver, State Easement Specialist, at Matthew.Oliver@usda.gov, or Laura Smith, Assistant State Conservationist for Programs, at Laura.Smith2@usda.gov. Thank you very much.

JON BOURDON
State Conservationist

Attachment A: NRCS WV FY23 Easement Programs Tentative Timeline
Attachment B: NRCS WV FY23 ACEP ALE and RCPP ALE Application Guidance
Attachment C: NRCS WV FY23 ACEP WRE Application Checklist

Attachment A: NRCS WV FY23 Easement Programs Tentative Timelines

ACEP ALE & RCPP ALE Application Tentative Timeline (please note these dates represent a target timeline and are subject to change)

From	To	Description
Present	November 18, 2022	Field Offices (FOs) work with Eligible Entities and applicants to complete applications for ACEP ALE & RCPP ALE. All complete application packages due to the State Office (SO) from Eligible Entities. Application submissions cannot be changed after this date.
<i>Note: application packets may need to be updated based on forthcoming NHQ guidance.</i>		
November 18, 2022	January 13, 2023	FOs complete preliminary planning, onsite ranking, Landowner Disclosure Worksheet, HazMat Field Inspection Checklist, HazMat Landowner Interview, and enter all ACEP ALE & RCPP ALE applications into the appropriate NRCS Business Tools (i.e., ProTracts, CD, CART, DMS). SO enters RCPP ALE NEST data.
January 13, 2023	May 12, 2023	SO reviews onsite/CART ranking, preliminary due diligence, application materials, and NRCS Business Tools data, and evaluates for land and landowner eligibility on complete applications only. LOs must be in appropriate COC, AGI, and HEL/WC statuses prior to 4/28/23.
	May 12, 2023	<u>Tentative</u> date for funding selections
May 12, 2023	May 26, 2023	Eligible Entity confirmation of tentative selections
May 26, 2023	July 14, 2023	Program Agreements and/or Parcel Contracts routed through NHQ for approval then to Eligible Entities for signature. Eligible Entities to return executed Program Agreements and/or Parcel Contracts to NRCS.
July 14, 2023	July 28, 2023	State Conservationist reviews Program Agreements and/or Parcel Contracts and executes contingent upon approval.
July 28, 2022	End of FY	SO obligates ALE funds.



ACEP WRE Application Tentative Timeline (Please note these dates represent a target timeline and are subject to change)

From	To	Description
Present	November 18, 2022	All ranked applications from FOs due to the SO. Application submissions cannot be changed after this date. <i>Note: application packets may need to be updated based on forthcoming NHQ guidance.</i>
November 18, 2022	January 13, 2023	FOs complete onsite land eligibility, preliminary planning, ranking, Landowner Disclosure Worksheet, HazMat Field Inspection Checklist, HazMat Landowner Interview, and enter all ACEP WRE applications into the appropriate NRCS Business Tools (i.e., CD & CART). SO enters ACEP WRE NEST data.
January 13, 2023	May 12, 2023	SO reviews onsite/CART ranking, preliminary due diligence, application materials, and NRCS Business Tools data, and evaluates for land and landowner eligibility on complete applications only. LOs must be in appropriate COC, AGI, and HEL/WC statuses prior to 4/28/23.
	May 12, 2023	<u>Tentative</u> date for funding selections
May 12, 2023	May 26, 2023	Landowner confirmation of tentative selections
May 26, 2023	July 14, 2023	NRCS-LTP-31 “Agreement for the Purchase of Conservation Easement (APCE)” routed through NHQ for approval then to landowner applicant for signature. Applicant to return executed APCE to NRCS.
July 14, 2023	July 28, 2023	STC reviews APCE and executes contingent upon approval.
July 28, 2023	End of FY	SO obligates WRE funds.

**Attachment B: USDA NRCS WV ACEP ALE & RCPP ALE Application Guidance for
Fiscal Year 2023 (FY23)**

Current forms, example maps, and other relevant materials must be utilized and may be accessed from the [NRCS WV ACEP ALE WEBPAGE](#)

This guidance is in lieu of any forthcoming guidance from NRCS National Headquarters (NHQ) specific to FY23. Therefore, updates to application packets may be necessary at a later time.

All eligible NRCS easement program applications are assessed and ranked in the Conservation Assessment Ranking Tool (CART). Incomplete and/or ineligible applications will not be ranked. A complete application is one that is submitted on the appropriate forms, filled out accurately and completely, accompanied by all required supporting documentation outlined in this ACEP ALE and RCPP ALE Application Guidance document, and signed by all required parties. Only properly completed and executed applications submitted by the application cutoff date will be considered for funding in Fiscal Year 2023 (FY23).

Entity Documentation

1. Form [NRCS-CPA-41 \(dated February 2020 or later\)](#).

- Please read all form instructions and ensure the form is filled out accurately and completely including all necessary signatures. Submit only one CPA-41 per entity.
- All Eligible Entities who will be a party to the Program Agreement and/or who will provide funds toward one or more of the parcels submitted for application must be listed on the form and must sign the form.
- Please note that Section F (“Easement Value and Compensation Costs”) and Section G (“Roles, Contributions, and Distributions”) do not need completed for Program Agreements.
- Note that the Eligible Entity is self-certifying they have the resources to acquire, monitor, manage, and enforce, the easements being applied for and acknowledge that additional documentation to substantiate this may be required to receive Federal cost-share assistance.
- If eligible and selected for funding, prior to closing, the Eligible Entity must further certify as part of the “Statement to Confirm Matching Funds” (NRCS-CPA-230E), that the Eligible Entity’s own contributions and costs, as listed on the NRCS-CPA-230E, did not come from additional donations, payments, loans, or fees made by or charged to the Grantors of the ALE easement, their immediate family members, or organizations controlled or funded by Grantors, either through formal or informal agreements. Grantor must also understand that the ACEP ALE and RCPP ALE programs do not require a landowner donation or contributions to stewardship or acquisition funds.
- Also note the Eligible Entity is self-certifying that it has received and reviewed a copy of the required ALE-Agreement Template and associated Exhibits, accessible from the [NRCS WV ACEP ALE WEBPAGE](#), and understand that the terms of the

agricultural land easement deed must address the provisions required as a condition of participation in the ALE-Agreement.

- Eligible Entities with current and valid ACEP ALE or RCPP ALE Program Agreements may simply submit NRCS-CPA-41A parcel applications for individual Parcel Contracts to be added to their existing Program Agreements. Submission of a NRCS-CPA-41 is not required.

2. Signature authority for the Eligible Entity.

- This can be documented by providing the Eligible Entity's bylaws, articles of incorporation, operating agreement, articles of organization, trust documents, meeting minutes, or similar documentation showing whom has authority to sign for the Eligible Entity.
- If you have applied in previous years and the signatories have not changed—please continue to include this documentation in your application packet anyway.

3. Documentation of the Eligible Entity's commitment to long-term conservation of agricultural lands through the use of voluntary conservation easements that protect farm or ranch lands from conversion to nonagricultural uses.

- This must include a list of all the closed conservation easements held by the Eligible Entity.

4. Documentation of the Eligible Entity's capability and record of acquiring, holding, managing, and enforcing conservation easements.

- This must include a citation to the State conservation easement enabling statute that the entity will rely on to acquire the agricultural land easements.
 - If the entity is a State, local, or Tribal government, then this must include a citation to the Eligible Entity's statutory authority to acquire conservation easements consistent with the purposes of ALE (e.g., W. Va. Code §8A-12-1 *et seq.*).
 - If the entity is a Non-Governmental Organization (NGO), then this must include a citation to the Eligible Entity's statutory authority to acquire conservation easements consistent with the purposes of ALE (e.g., W. Va. Code §21-12-1 *et seq.*).
- This must also include: (1) the date of the most recent monitoring for all closed easements; (2) who completed the monitoring; and (3) the outcome of that monitoring.

5. Documentation of Eligible Entity's capacity to monitor and enforce the agricultural land easements.

- This must include a list of all staff members and/or volunteers devoted to monitoring and enforcement of the Eligible Entity's conservation easements and their current financial position as required to complete the NRCS WV FY23 ALE Eligibility Matrix described below.

6. DUNS Number.

7. Screen-print from SAM.gov showing active registration.

8. Direct Deposit Form (SF-1199A).

- Due to the new NRCS Business Tools and certain softwares utilized by NRCS, Eligible Entities must submit a current SF-1199A along with their application to ensure they are listed as an active vendor within those systems. Failure to submit a

current SF-1199A at application could impede obligation if a parcel(s) is selected for funding.

- If an Eligible Entity already has an active SF-1199A on file with NRCS WV—please submit this form anyway in order to confirm the information is the same and hasn't changed from the prior year(s).

Parcel Documentation

1. Form NRCS-CPA-41A (dated February 2020 or later).

- Please read all form instructions and ensure the form is filled out accurately and completely including all necessary signatures. Submit one CPA-41A for each parcel submitted for potential funding.
- If prime, unique, or other productive soils are the eligibility category—be sure to list the percent of the parcel offered for NRCS easement that is prime, unique, or other productive soil. Starting with the CPA-41A, this should be consistent with the percent soils reported elsewhere in the application packet.
- The NRCS “Parcel Offered Acres” should be listed and should be consistent throughout the application packet beginning with the CPA-41A. The acreage offered for NRCS easement must be supported by the evidence of ownership.
 - Note the NRCS “Parcel Offered Acres” pertain to the NRCS easement area only. Unencumbered (i.e., excepted) acres or non-NRCS easement acreage (i.e., locally funded only or donated acres) should not be included in the NRCS “Parcel Offered Acres” calculation.
- If the parcel contains forestland, be sure to identify the percent forest cover. Starting with the CPA-41A, this percentage should be consistent with forest land acreages, percentages, and maps reported elsewhere in the application packet.
 - ALE easements may only contain forest land on up to two-thirds (66%) of the easement area.
- Section D (“Easement Value and Compensation Costs and Non-Federal Share Information”) must be filled out accurately and completely.
 - The non-Federal Share may be comprised of the following in a stepwise fashion:
 - (1): Eligible Entity’s cash contribution toward easement payment to landowner;
 - (2): Landowner’s donation or charitable contribution reducing easement purchase price;
 - (3): Procured costs paid by the Eligible Entity for certain easement acquisition-related expenses; or
 - (4): Eligible Entity’s costs for monitoring and stewardship (up to 2% of the Fair Market Value (FMV) of the easement).
 - Note: when an Eligible Entity intends to provide less than 10% of the FMV of the easement in the form of a cash contribution for easement compensation then the Eligible Entity must provide evidence as requested by NRCS of its ability to steward and monitor the parcel.

- The values reported in this table should be consistent with the easement values reported throughout the application packet. **These values cannot be changed after application.**
- Note that the Eligible Entity is self-certifying they have the resources to acquire, monitor, manage, and enforce the easements being applied for and acknowledge that additional documentation to substantiate this may be required to receive Federal cost-share assistance.
- If eligible and selected for funding, prior to closing, the Eligible Entity must further certify as part of the “Statement to Confirm Matching Funds” (NRCS-CPA-230E), that the Eligible Entity’s own contributions and costs, as listed on the NRCS-CPA-230E, did not come from additional donations, payments, loans, or fees made by or charged to the Grantors of the ALE easement, their immediate family members, or organizations controlled or funded by Grantors, either through formal or informal agreements. Grantor must also understand that the ACEP ALE and RCPP ALE programs do not require a landowner donation or contributions to stewardship or acquisition funds.
- Note the entity is self-certifying that it has received and reviewed a copy of the required ALE-Agreement Template and associated Exhibits, accessible from the [NRCS WV ACEP ALE WEBPAGE](#), and understand that the terms of the agricultural land easement deed must address the provisions required as a condition of participation in the ALE-Agreement.
- Note the landowner is self-certifying their awareness of the United States’ requirements regarding the agricultural land easement deed and have received a copy of the United States’ required deed terms and conditions.

2. **Written Pending Offer.**

- A pending offer is a written bid, contract, or option to convey a conservation easement. The Written Pending Offer may be extended by the Eligible Entity to the landowner to acquire the conservation easement or may be from the landowner to the Eligible Entity to sell the conservation easement. A Written Pending Offer may take the form of a signed option-to-purchase agreement or other type of purchasing agreement, a letter of intent to sell the easement, an offer letter from the landowner to the Eligible Entity, or other similar documentation.
- Eligible Entities are encouraged to utilize the sample Written Pending Offer letter available on the NRCS WV webpage.
- All acreages and dollar amounts listed on the Written Pending Offer should be consistent with acreages and dollar amounts reported throughout the remainder of the application packet.

3. **Clear proof of ownership.**

- Proof of ownership is satisfied by providing the recorded source deed. Proof of ownership can be shown by providing a will (or series of wills) disposing of the offered property, along with deeds showing that the decedent(s) previously took ownership of the offered property.
- Proof of ownership must be satisfied for all property offered for NRCS easement. For example, if the application lists 300 acres, deeds conveying at least 300 acres must be provided. Tax tickets are not sufficient proof of ownership—the legal instrument(s) of record conveying the subject property must be provided.

- If a grantee or other interest holder has passed away, NRCS requires evidence of this, such as a death certificate.
 - If proof of ownership is not clear for NRCS staff, or if the number of acres offered for easement are not explicitly supported by the source deed(s), then the application will be determined ineligible due to insufficient evidence of ownership.
4. **Evidence of signature authority to act on the behalf of other individuals (if necessary).**
- An example of this would be a legal document granting Power of Attorney (POA).
5. **Location Map**
- The Location Map should be at a small enough scale to where the county boundary can be viewed in relation to the easement boundary. The base map provided as the background for this Location Map is at the applicant's discretion so long as the parcel being offered for NRCS easement can easily be located in connection to the county boundary.
 - A Web Soil Survey map is not sufficient to meet the Location Map requirement.
6. **Easement Boundary/Access Map**
- The Easement Boundary/Access Map must consist of a recent aerial image showing the proposed NRCS easement boundary and offered acreage. NRCS "Parcel Offered Acres" must be clearly labeled and must match all other acreages reported in the application packet.
 - If the offered acres are a portion of a larger unencumbered parcel (i.e., an exception), the boundary of the larger unencumbered parcel must also be clearly shown on the same map. The NRCS easement area and the unencumbered area should be labeled along with their associated acreages.
 - If the parcel offered for easement will have an NRCS-easement area and a non-NRCS easement area (i.e., locally funded or donated acres), then the NRCS-easement and non-NRCS easement area must be clearly delineated, labeled, and the acres reported separately (i.e., NRCS easement area acres versus non-NRCS easement area acres).
 - The aerial imagery must be captured during leaf-on to properly represent the forest land use acres which should be consistent with forest land use acreages and proportions reported elsewhere in the application packet.
 - ALE easements may only contain forest land on up to two-thirds (66%) of the easement area.
 - If there is an exception to the easement **not** contiguous to the boundary and/or not owned by the applicant (i.e., an in-holding), the State Conservationist requires that in-holding, and access to that in-holding, to be surveyed out prior to making application to NRCS WV. The new boundary survey, and evidence of ownership to the in-holding if necessary, must be included in the application packet otherwise the application will be considered incomplete.
 - NRCS WV prohibits subdivision of protected properties enrolled in ACEP ALE and RCPP ALE. Therefore, applications requesting subdivision will be considered incomplete due to inconsistency with NRCS WV policy.
 - **Boundaries cannot be changed after application.**
 - The Easement Boundary/Access Map must also show access. Most commonly, access is through either a public road or a recorded, perpetual, right-of-way from a public road specifically to the property. Access should be identified by clearly labeling the

route number of the public road(s) from which the parcel will be accessed or the access route between the public road and the parcel along with the recorded right-of-way document providing legal access. Sufficient access requires NRCS to have both physical and legal access to the easement area. Physical access is sufficient if NRCS can reliably, safely, and efficiently conduct onsite visual and physical inspections of the parcel to monitor compliance with the terms of the easement (528.62(B)(3)(i)). Legal access is defined as an insurable, unconditional, and transferable legal right of recorded access for the term of the easement (528.62(B)(3)(ii)).

- The map should note where and if third-party lands are crossed.
 - If the offered property adjoins a public road, the route number must be clearly displayed. Do not list common road names. West Virginia Division of Highways GIS County Maps are located at the following web address: <https://gis.transportation.wv.gov/CountyMapsApp/>.
 - If access is via a personal right-of-way, evidence such as a recorded instrument conveying the right-of-way must be provided with the application packet along with evidence of the underlying ownership over which the right-of-way traverses. Evidence that the personal right-of-way connects to a public road must also be provided.
- *A Web Soil Survey map is not sufficient to meet the Easement Boundary/Access Map requirement.*

7. Farmland Classification Map

- The Farmland Classification Map and report will note soil classification and the user should not need to note the classification by hand. The report should include all land proposed to be funded by NRCS WV.
- **Note that any unencumbered acres (i.e., exceptions) or non-NRCS easement area acres (i.e., locally funded only or donated acres) should not be included in the Farmland Classification Map.**
- *The acreage shown on the report must match the NRCS "Parcel Offered Acres" reported elsewhere in the application.*
- Please do not include an entire soil report. The farmland classification map, legend, and rating table are sufficient.

8. Farm Service Agency (FSA) Map showing cropland and non-cropland land use categories and HEL/NHEL/UHEL fields.

- Include an FSA Map that shows the cropland and non-cropland land use categories and acres on the offered parcel. These land uses should correspond relatively closely to the land use analysis on Tab 4, Section 9, of the ALE Eligibility Matrix. NRCS Field Office Staff can assist in obtaining the FSA Map, as necessary.
- This map also shows whether fields have been determined Highly Erodible (HEL), Not Highly Erodible (NHEL) or are Undetermined (UHEL) which assists in knowing whether a Conservation Plan for 2018 Farm Bill enrollments, or a Conservation Plan Component to the ALE Plan for 2014 Farm Bill enrollments, will be needed.
- *A Web Soil Survey map is not sufficient to meet the FSA Map requirement.*

9. Land Use Map

- Provide a Land Use Map that clearly labels each land use and their corresponding acreages. NRCS Field Office Staff can assist Eligible Entities in creating this map.

- The aerial photography used for the Boundary/Access Map should be the same aerial photography used for the Land Use Map.
- The aerial photography should be recent and during leaf-on season in order to properly represent the forest land use acres which should be consistent with acreages and proportions reported elsewhere in the application.
 - ALE easements may only contain forest land on up to two-thirds (66%) of the easement area.
- These land uses should also correspond to the land use analysis on Tab 4, Section 9, of the ALE Eligibility Matrix.
- A Web Soil Survey map is not sufficient to meet the Land Use Map requirement.

10. Completed FY23 ALE Eligibility Matrix

- Complete the most recent ALE Eligibility Matrix according to the instructions contained therein. Ensure the form is filled out accurately and completely including all necessary signatures.
- All acreages and dollar amounts listed should be consistent throughout the application packet.
- Please be sure to list the number of residential dwellings/retained development rights and the total acreage. This cannot be changed after application.
 - NRCS WV requires the number of residential dwellings/retained development rights to be identified at the time of application; and the location of residential dwellings/retained development rights to be identified before closing. Locating residential dwellings/retained development rights after closing (i.e., "floating development rights") are not permitted.

11. Other evidence to support ranking data

- If the application proposes points for any other items, evidence must be provided for onsite ranking verification.
- For example, if the application proposes points for a stream(s) on the offered property, a Stream Map clearly showing the location of the stream(s) must be provided for onsite ranking verification.
- If the application proposes points for threatened or endangered species, an Interagency Coordination Tool (ICT) printout must be provided.
- If the application proposes ranking points for nearby protected land(s), a Proximity Map must be provided. On a map or aerial photograph, indicate: (1) the location of the proposed easement; (2) the location and identity of the other protected land; and (3) the distance, in miles or feet, between the proposed easement and the other protected land.
- If an application proposes points for headwaters, minor perennial streams, sinkholes/caves, springs, and/or wetlands, then a map clearly showing the location of such natural features on the parcel offered for easement must be provided for onsite verification.
- A Web Soil Survey map is not sufficient to meet these mapping requirements.

12. Farmstead Complex Areas

- Farmstead Complex Areas should not be excessively large and should be limited in number. Generally, these areas should be located near existing farm roads or travel ways. Existing farm structures shall be included.
- Farmstead Complex Areas in the center of the prime, unique, or other productive soils, are discouraged. However, given the topography of the state, it is understood this may be unavoidable at times.

13. Narrative statement or map illustrating the parcel's accessibility to agricultural markets.

- This does not need to be extensive discourse or complex mapping. Simple explanations or maps will do.
- If multiple parcels are close in proximity to one another (e.g., within the same county), then only one narrative statement or map regarding agricultural markets is necessary.

14. Narrative statement or map illustrating the parcel's access to existing agricultural infrastructure and other support systems.

- This does not need to be extensive discourse or complex mapping. Simple explanations or maps will do.
- If multiple parcels are close in proximity to one another (e.g., within the same county), then only one narrative statement or map regarding agricultural infrastructure is necessary.

15. Narrative statement or map illustrating the threat of conversion or fragmentation for each parcel.

- This does not need to be extensive discourse or complex mapping. Simple explanations or maps will do.
- If multiple parcels are close in proximity to one another (e.g., within the same county), then only one narrative statement or map regarding the threat of conversion or fragmentation is necessary.

16. Hazardous Materials Field Inspection Checklist (NRCS completes with landowner).

- This form must be filled out completely and accurately. NRCS will usually complete this checklist in consultation with the landowner during the onsite ranking visit. The form must be current and cannot be from a prior year's application as the content matter of this checklist is subject to change. The form must be signed by the NRCS staff member who conducted the examination.

17. Hazardous Materials Landowner Interview (NRCS completes with landowner).

- This form must be filled out completely and accurately. NRCS will usually complete the interview with the landowner during the onsite ranking visit. The form must be current and cannot be from a prior year's application as the content matter of the interview is subject to change. The form must be signed by the landowner and NRCS staff member who conducted the interview.

18. Landowner Disclosure Worksheet (NRCS completes with landowner).

- This form must be filled out completely and accurately. NRCS will usually complete the worksheet with the landowner during the onsite ranking visit. The form must be current and cannot be from a prior year's application as the content matter of the

worksheet is subject to change. The form must be signed by the landowner and NRCS staff member who completed the worksheet.

19. Landowner must go to FSA and file a CCC-902 (Farm Operating Plan), CCC-941 (AGI certification), and AD-1026 (HEL/WC certification).

- Individuals applying for NRCS programs must complete form CCC-902 and remit all required information to the local FSA Office promptly for a County Office Commission (COC) determination unless already in a “filed” or “determined” status. Failure to do so may result in the landowner not being in a “**determined**” status prior to NRCS WV State Office review.
- Form CCC-941 must be submitted to FSA as soon as the fiscal year begins on October 1. Failure to do so may result in the landowner not being in a compliant status prior to NRCS WV State Office review.
- The AD-1026 may be filed prior to October 1 and must be in a compliant status prior to NRCS WV State Office review.
- Landowners will be evaluated for landowner eligibility (i.e., appropriate COC, AGI, and HEL/WC statuses) by NRCS WV State Office Staff beginning **Friday, April 28, 2023**. Those that have not filed or are in an otherwise ineligible COC determination, AGI, or HEL/WC status, on this date, will be removed from consideration for FY23 funding.

20. Copies of any title reports for the parcel, if available.

21. Copies of appraisal reports for the parcel, if available.

22. Copies of any environmental site assessments, if available.

If Landowner is an Entity (such as an LLC or Trust):

23. The entity must go to FSA and file a CCC-902 (Farm Operating Plan), CCC-941 (AGI certification), and AD-1026 (HEL/WC certification); and depending on the business type of the entity, members must file either the CCC-941 (AGI certification) and possibly the AD-1026 (HEL/WC certification) as well. Please compare the business type of the entity to the “Landowner Eligibility Matrix” PDF form on the [NRCS WV ACEP ALE web page](#) to determine these filing requirements.

- Legal entities applying for NRCS programs must complete form CCC-902 and remit all required information to the local FSA Office promptly for a County Office Commission (COC) determination unless already in a “filed” or “determined” status. Failure to do so may result in the entity not being in a “**determined**” status prior to NRCS WV State Office review.
- Form CCC-941 must be submitted to FSA as soon as the fiscal year begins on October 1. Failure to do so may result in the entity, or one of its members, not being in a compliant status prior to NRCS WV State Office review.
- The AD-1026 may be filed prior to October 1 and must be in a compliant status prior to NRCS WV State Office review.
- Landowners that are entities will be evaluated for landowner eligibility (i.e., appropriate COC, AGI, and HEL/WC status) by NRCS WV State Office Staff beginning **Friday, April 28, 2023**. Those that have not filed or are in an otherwise ineligible COC determination, AGI, or HEL/WC status, on this date, will be removed from consideration for FY23 funding.

24. **Signature authority document (e.g., articles of incorporation, operating agreement, articles of organization, trust documents, etc.) and evidence that the entity is in good standing with the Secretary of State of WV must be provided with the application materials.**
25. **As a reminder, all eligible NRCS easement program applications are assessed and ranked in CART. Ranking criteria are published on the [NRCS WV ACEP ALE WEBPAGE](#) at least 30-days prior to the application deadline each fiscal year.**

Attachment C: USDA NRCS WV ACEP WRE Application Checklist for Fiscal Year 2023 (FY23)

Current forms, and other relevant materials, must be utilized and are accessible from the [NRCS WV ACEP WRE WEBPAGE](#). Example maps available upon request and must be utilized to develop acceptable mapping products.

This guidance is in lieu of any forthcoming guidance from NRCS National Headquarters (NHQ) specific to FY23. Therefore, updates to application packets may be necessary at a later time.

All eligible NRCS easement program applications are assessed and ranked in Conservation Assessment Ranking Tool (CART). Incomplete and/or ineligible applications will not be ranked. A complete application is one that is submitted on the appropriate forms, filled out accurately and completely, accompanied by all required supporting documentation outlined in this WRE Application Checklist document, and signed by all required parties. Only properly completed and executed applications submitted by the application cutoff date will be considered for funding in Fiscal Year 2023 (FY23).

If the Landowner is an Individual: Visit FSA to ensure farm records have been established to include a Farm Operating Plan (FSA Form CCC-902), AGI (FSA Form CCC-941), and HEL/WC certifications (FSA Form AD-1026) for the current year.

- Individuals applying for NRCS programs must complete form CCC-902 and remit all required information to the local FSA Office promptly for a County Office Commission (COC) determination unless already in a “filed” or “determined” status. Failure to do so may result in the landowner not being in a “**determined**” status prior to NRCS WV State Office review.
- Individuals must also file their CCC-941 (AGI certification) and the AD-1026 (HEL/WC certification) and submit them to the local FSA Office as soon as possible. Applications cannot be processed without established records on each individual listed on the proof of ownership.
- Access to these forms has been provided on the [NRCS WV ACEP WRE web page](#) but this documentation **must be submitted to FSA** as soon as the fiscal year begins on October 1. The AD-1026 may be filed prior to October 1.
- *Failure to file may result in the landowner not being in a compliant status prior to NRCS WV State Office review. Landowners will be evaluated for landowner eligibility (i.e., appropriate COC, AGI, and HEL/WC statuses) by NRCS WV State Office Staff beginning **Friday, April 28, 2023**. Those that have not filed or are in an otherwise ineligible COC determination, AGI, or HEL/WC status, on this date, will be removed from consideration for FY23 funding.*

If the Landowner is an Entity (such as an LLC or Trust): Form CCC-902 (Farm Operating Plan) must be on file with FSA also. Moreover, **the entity** must go to FSA and file the CCC-941 (AGI certification) and AD-1026 (HEL/WC certification); and depending on the business type of the entity, **entity members must also file** either the CCC-941 (AGI certification) and possibly the AD-1026 (HEL/WC certification).

- Entities applying for NRCS programs must complete form CCC-902 and remit all required information to the local FSA Office promptly for a COC determination unless already in a “filed” or “determined” status. Failure to do so may result in the entity not being in a “**determined**” status prior to NRCS WV State Office review.
- Entities must also file their CCC-941 (AGI certification) and the AD-1026 (HEL/WC certification) and submit them to the local FSA Office as soon as possible. Applications cannot be processed without established records on each individual listed on the proof of ownership.
 - Please compare the business type of the entity to the “Landowner Eligibility Matrix” PDF form on the [NRCS WV ACEP WRE web page](#) to determine **member** filing requirements.
- Access to these forms have been provided on the [NRCS WV ACEP WRE web page](#) but this documentation **must be submitted to FSA** as soon as the fiscal year begins on October 1. The AD-1026 may be filed prior to October 1.
- *Failure to file may result in the entity, or one of its members, not being in a compliant status prior to NRCS WV State Office review. Landowners that are entities will be evaluated for landowner eligibility (i.e., appropriate COC, AGI, and HEL/WC statuses) by NRCS WV State Office Staff beginning **Friday, April 28, 2023**. Those that have not filed or are in an otherwise ineligible COC determination, AGI, or HEL/WC status, on this date, will be removed from consideration for FY23 funding.*
- Signature authority documentation (e.g., articles of incorporation, operating agreement, articles of organization, trust documents) and evidence that the entity is in good standing with the Secretary of State of WV must be provided with the application materials.

NRCS Field Office staff complete the following with the applicant:

1. [Hazardous Materials Field Inspection Checklist](#)
 - This form must be filled out completely and accurately. NRCS will complete this checklist in consultation with the landowner during an onsite visit. The form must be current and cannot be from a prior year’s application as the content matter of this checklist is subject to change. The form must be signed by the NRCS staff member who conducted the examination.
2. [Hazardous Materials Landowner Interview](#)
 - This form must be filled out completely and accurately. NRCS will complete the interview with the landowner during an onsite visit. The form must be current and cannot be from a prior year’s application as the content matter of the interview is subject to change. The form must be signed by the landowner and NRCS staff member who conducted the interview.
3. [Landowner Disclosure Worksheet](#)
 - This form must be filled out completely and accurately. NRCS will complete the worksheet with the landowner during an onsite visit. The form must be current and cannot be from a prior year’s application as the content matter of the worksheet is subject to change. The form must be signed by the landowner and NRCS staff member who completed the worksheet.
4. [Direct Deposit Form \(SF-1199A\).](#)

Landowner submits the following with assistance from the NRCS Field Office:

1. [NRCS-CPA-1200 – Conservation Program Application](#) (March 2019 or later)
2. Completed NRCS WV FY23 ACEP WRE Application Matrix available at the [NRCS WV ACEP WRE web page](#).
3. Clear and acceptable proof of ownership showing the land has been owned by the applicant for at least 24 months. Example evidence of ownership includes, but is not limited to:
 - General or Special Warranty Deed.
 - Warranty Deed with Vendor's Lien.
 - Probated Will.
 - Gift Deed.
 - Prior title policy along with instruments vesting Fee Simple title in the applicant's name(s).
 - Normally, proof of ownership is satisfied by providing the source deed. Alternatively, proof of ownership can be shown by providing a will (or series of wills) disposing of the offered property, along with deeds showing that the decedent(s) previously took ownership of the offered property. All landowners with a legal interest in the offered property must sign the conservation easement application. For example, if proof of ownership is satisfied by deed, all grantees listed on the deed must sign the application.
 - If a grantee or other interest holder has passed away, NRCS requires evidence of this, such as a death certificate.
 - **Proof of ownership must be satisfied for all property offered for WRE easement.**
 - For example, if the application lists 50 acres, deeds conveying at least 50 acres must be provided.
 - *If ownership records are not clear for NRCS staff, or if the number of acres offered for easement are not explicitly supported by the source deed(s), the landowner will be determined ineligible due to insufficient evidence of ownership.*
 - **Landowners, and landowner entities, are required to provide clear title and unencumbered, unrestricted, transferable, and otherwise sufficient physical and legal right of access from an identified Federal, State, or local public right-of-way to the entire enrolled area for the term of the enrollment (528.102(A)(3)).**
4. Request for waiver for 24-month ownership requirement (if applicable).
5. Location Map
 - The Location Map should be at a small enough scale to where the county boundary can be viewed in relation to the parcel. The base map provided as the background for this Location Map is at the mapper's discretion so long as the parcel being offered for WRE easement can easily be located in connection to the county boundary.
6. Property Map
 - Total fee-owned property boundary and acres.
7. Easement Boundary/Access Map

- The Easement Boundary/Access Map must consist of a recent aerial image showing the proposed easement boundary and offered acreage.
 - The Easement Boundary/Access Map must also show access. Most commonly, access is through either a public road or a recorded, perpetual, right-of-way from a public road specifically to the property. Access should be identified by clearly labeling the route number of the public road(s) from which the parcel will be accessed or the access route between the public road and the parcel along with the recorded right-of-way document providing legal access. Legal access must be unencumbered, unrestricted, transferable, and otherwise sufficient physical and legal access from an identified Federal, State, or local public right-of-way to the entire enrolled area for the term of the easement (528.105(A)(1)(vii)). The map should note where and if third-party lands are crossed.
 - If the offered property adjoins a public road, the route number must be clearly displayed. Do not list common road names. West Virginia Division of Highways GIS County Maps are located at the following web address: <https://gis.transportation.wv.gov/CountyMapsApp/>.
 - If access is via a personal right-of-way, evidence such as a recorded instrument conveying the right-of-way must be provided with the application packet along with evidence of the underlying ownership over which the right-of-way traverses. Evidence that the personal right-of-way connects to a public road must also be provided.
8. Land Eligibility Map
- A map showing the proposed eligible land types (e.g., Farmed or Converted Wetlands, Former or Degraded Wetlands, Lands Substantially Altered by Flooding, Croplands or Grasslands: closed basin or potholes, Riparian Areas, Lands in CRP, Wetlands restored or protected under another program for which WRE would provide additional protection, Inclusions or Problems Soils).
 - Eligible adjacent lands may be included if they contribute significantly to the wetland functions and values and/or are incidental but necessary for practical administration.
 - **Eligible adjacent lands cannot exceed the acres of otherwise eligible land (1:1 ratio limitation of eligible to adjacent lands).**
9. Land Use/Land Cover Map
- A map showing the current land use/land cover for the offered area (e.g., forest, pasture, etc.)
10. Evidence of signature authority clearly designating who has authority to act on behalf of other individuals, if necessary (e.g., Power of Attorney).
11. Proof of ownership of sufficient water rights **(if applicable)**.
12. CCC-505 – Voluntary Permanent Base Acre Reduction. This document is required to determine the amount of crop base that could be impacted by the WRE. The form will **ONLY** be filed at the time of easement closing. Any crop base on the WRE must be retired or moved. The WRE is no longer eligible for any federal programs.

As a reminder, all eligible NRCS easement program applications are assessed and ranked in CART. Ranking criteria are published on the [NRCS WV ACEP WRE web page](#) at least 30-days prior to the application deadline each fiscal year.