

- Any eligible entity or landowner contribution to the purchase price of the easement area outside of the ACEP-ALE area is not used as part of the non-Federal share for the ACEP-ALE.
- (ii) For 2014 Farm Bill enrollments: if the contiguous forested acreage is the greater of 40 acres or 20 percent of the ACEP-ALE easement area, the forested acreage must have a forest management plan as a component of the agricultural land easement plan. (See subpart G, section 528.63B of this part, for additional detail.)
- (3) Incidental Land.— Incidental land includes such land as farmstead areas, other areas with agricultural buildings and infrastructure, and nonforested wetlands. The acres of incidental land must not exceed the acres of otherwise eligible land. Land that is incidental to the eligible land and that is not otherwise eligible, may be included in an ACEP-ALE easement if the State conservationist determines any of the following apply to the incidental land:
 - (i) Is necessary for the efficient administration of an agricultural land easement.
 - (ii) Significantly augments the protection of the associated farm or ranch land.
 - (iii) Contributes to the grassland functions and values and related conservation values.

D. Additional Land Eligibility Requirements

- (1) **Written Pending Offer.**—Eligible land must be subject to a written pending offer by an eligible entity, except as described in paragraph (2) below for a buy-protect-sell transaction.
 - (i) A pending offer is a written bid, contract, or option to convey a conservation easement for any of the following purposes:
 - Protecting agricultural productivity by limiting conversion to nonagricultural uses
 - Protecting historical or archaeological sites from destructive practices
 - Protecting grazing uses and related conservation values by restoring or conserving land
 - Furthering ACEP-ALE policy or policy consistent with the purposes of ACEP-ALE
 - (ii) 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. The State conservationist will determine the sufficiency of the written pending offer for the purposes of determining ACEP-ALE eligibility.
 - (iii) 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. 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.
 - (iv) Pending offers **must be for a conservation easement in perpetuity** or the maximum duration allowed under State law.
 - (v) A copy of the written pending offer must be provided by the entity at the time of application and must be retained in the easement case file for the individual parcel.
- (2) Buy-Protect-Sell Transaction Land Eligibility.—Private or Tribal land that otherwise meets the eligibility requirements of this part that is owned or in the process of being