



# Guide to the Agricultural Conservation Easement Program's Agricultural Land Easements



## What is the Agricultural Conservation Easement Program (ACEP)?

ACEP helps landowners, land trusts, and other entities protect, restore, and enhance wetlands or protect working farms and ranches through conservation easements.

## What is an Agricultural Land Easement (ALE)?

An ALE is a permanent conservation easement held by an eligible entity (land trust), not NRCS. The purpose of ALE is to protect the agricultural viability and related conservation values of eligible land by limiting nonagricultural uses.

## If NRCS does not hold the easement, how is NRCS involved?

Land trusts submit application packages to the NRCS State Office for funding consideration. NRCS makes the decision as to whether an easement is selected for funding. This decision is made based on how the project ranks relative to the other proposed easement projects for that fiscal year.

## How much funding does NRCS provide?

NRCS provides matching funds to eligible entities. Generally, NRCS may contribute up to 50 percent of the fair market value of the easement as determined by appraisal. If you are protecting grasslands of special environmental significance, NRCS can contribute more—up to 75 percent of the fair market value of the agricultural land easement.

**NRCS is seeking eligible entities who are committed to long-term conservation of agricultural lands to hold easements in New Jersey.**

**See our list of current partners below:**

Land Trust/Entity	County Served
NJ State Agriculture Development Committee (SADC)	All counties
NJ Conservation Foundation	All counties
Hunterdon Land Trust	Hunterdon County
D&R Greenway	All counties

## Can a landowner submit an application directly to NRCS for an ALE?

No, landowners may not submit applications directly to NRCS as the easement is not held by the United States. To enroll land in an ALE, the landowner chooses a land trust partner to hold the easement. The partner then submits an application to NRCS. If selected for enrollment, the land trust enters into a cooperative agreement with NRCS.

## Are ALEs permanent?

Yes, it's a permanent easement deed that is recorded as an encumbrance on the property deed and stays in effect even if ownership changes. It contains provisions that limit future uses and non-farm development to protect agricultural uses.

## What are the restrictions placed on property under an ALE?

Under ALE, the landowner and land trust can either choose to protect the agricultural use and future viability and related conservation values of their land (General ALE) OR protect the grazing uses and related conservation values (ALE-GSS) of their land. The type of ALE chosen will determine deed restrictions. The conservation easement deed language is developed by the land trusts with specific minimum terms required by NRCS.

## Does the landowner control access?

Yes, but offering public access is an option and some level of public access is generally required if partnering with certain entities.

## Does an ALE restrict the landowner's ability to hunt and fish?

There are no restrictions on recreational hunting and fishing if land is placed under an ALE. The producer must speak with the entity they're working with regarding any permanent structures related to recreational activities.

## How much will the landowner get paid for an ALE?

The value of the easement will be determined by an appraisal.

## What are the benefits?

The program is an important source of matching funds to help permanently protect agricultural land for agricultural uses. Your ability to pay an agricultural landowner for an easement can help create new land protection opportunities. ALE can also:

- Help facilitate the transfer of agricultural land to the next generation
- Make agricultural land relatively affordable by limiting future development that tends to increase fair market value
- Give agricultural landowners capital to implement on-farm conservation practices or make other investments to improve the viability of their operations

## What types of transactions are there?

There are two types of ACEP-ALE transactions. The most widely used is the Standard ALE transaction, whereas the eligible entity has a written pending offer to purchase the agricultural land easement from a landowner. A Buy-Protect-Sell (BPS) transaction may be an option for certain eligible entities if they own or are purchasing land on a transitional basis for the purposes of securing the agricultural land easement and timely transfer of the ownership of the land to a qualified farmer or rancher.

## What are the requirements to become an eligible entity?

Your organization must be able to answer "yes" to the following questions before applying:

Are you a state or local government, Indian Tribe, or nongovernmental organization?

- Do you have a farmland protection program?
- Do you possess the authority and capability to acquire, manage, and enforce agricultural land easements?
- Do you have a Unique Entity ID (UEI)? If not, go to SAM.gov and register your entity to do business with the U.S. government.
- Do you have entity records established with the USDA Farm Service Agency (FSA), the agency responsible for maintaining records for USDA programs? (If not, make an appointment with your local FSA county office to complete the USDA eligibility forms.)

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**Agricultural Conservation Easement Program**  
**Agricultural Land Easement**  
**Entity Application Workbook**

Applications can be mailed or hand delivered to the NJ NRCS State Office. One original copy of all application documents is required.

Eligible cooperating entities submit application proposals to NRCS to acquire conservation easements on eligible land. Landowners must work with a cooperating entity and do not submit applications directly to NRCS. A cooperating entity will need to submit one entity application and one parcel application for each parcel included in their application package.

Agricultural Conservation Easement Program (ACEP), Agricultural Land Easement (ALE) applications are accepted on a continuing basis throughout each fiscal year for the life of the 2018 Farm Bill. NRCS has established ranking periods for parcel enrollment each federal fiscal year. All eligible applications will be batched and ranked. Dollars will be obligated to the top-ranking projects as funding becomes available. The applications that do not rank high enough will retain their ranking score and be automatically reconsidered for the next ranking period of the fiscal year. Applications will only be ranked once for the entire fiscal year. If the landowners or entities revise and resubmit an application within the same fiscal year to improve their ranking score, the revised application will not be re-ranked or reconsidered for funding until the subsequent fiscal year.

Applications may be mailed or hand-delivered to:  
USDA-NRCS  
220 Davidson Avenue  
4<sup>th</sup> Floor  
Somerset, NJ 08873  
Attn: Easements Staff

If you have any questions, please contact the NJ NRCS Easements Program Staff:

- Gail Bartok, Assistant State Conservationist for Programs, 732-537-6042, [gail.bartok@usda.gov](mailto:gail.bartok@usda.gov)

## Part 1. Entity Eligibility Requirements Checklist

To qualify as an eligible entity, the following criteria must be met:

- Be committed to long-term conservation of agricultural lands
- Be capable of acquiring, managing, and enforcing easements.
- Have sufficient staff dedicated to monitoring and easement stewardship
- Have available funds for acquisition, monitoring, and stewardship
- Be a State or local government, or non-governmental/non-profit organization that has a farmland or grassland protection program.

**The following documentation must be provided for each holder of the deed, unless they are co-holding with an eligible entity**

- Evidence of an established farmland protection program: *Attach state, tribal or local government statute or ordinance or non-governmental organization mission statement that supports the program.*
- Evidence of a commitment to long-term conservation of agricultural lands using voluntary conservation easements that protect farmlands from conversion to non-agricultural uses: *Provide a list of easements acquired, held, managed and/or enforced by the Cooperating Entity/Grantees and any data regarding the acres and dollar contribution to easement acquisition.)*
- Evidence of the authority and demonstrated capability to acquire conservation easements or their equivalent: *Provide data related to successful strategies and policies for easement acquisition and screening. Provide details regarding likelihood of successful applications becoming acquired easements.*
- Evidence of the authority and demonstrated capability to hold, manage, or enforce conservation easements or their equivalent: *Provide information regarding enforcement and monitoring policies to prevent and manage potential violations.*
- Evidence of title and appraisal policies or standards: *Attach any policies or standards and describe any contractual agreements or procedures in place.*
- Evidence of staff dedicated to easement monitoring and stewardship: *List the number of current staff available for monitoring and number of easements and acres each staff member is responsible for.*
- Evidence of the availability of non-federal funds equal to at least 50% of the estimated fair market value of each conservation easement application: *Provide any documentation relating to the financial resources being used to provide the funding match. If the match is not directly provided by the cooperating entity, provide any stipulations to the matching dollars.*
- Documentation of signature authority of responsible official(s) managing and executing cooperative agreements, financial documentation, and deed of easements.

## Part 2. The Unique Entity ID (UEI)

In order to be eligible to receive financial assistance from USDA programs, business entities are required to obtain a Unique Entity Identifier (UEI) through [SAM.gov](https://sam.gov) and then register the entity.

An entity registration allows the organization the opportunity to receive a contract or assistance directly from the federal government, not from another contractor or awardee. The process includes getting the UEI and requires assertions, representations and certifications, and other information about the business.

The UEI does not expire. However, registrations must be updated and renewed each year to remain in the “active registration” status. If they are not updated or renewed, it will be in an “inactive” status, but the entity will still have its same UEI.

### To register for a new UEI:

Those who are new to SAM.gov can register their entity and get a UEI by signing in to SAM.gov and selecting “Get Started,” and choose “Register Entity.”

NOTE: Comprehensive instructions and a checklist for entity registration can be found on pages 7-24 of this guide.

## Part 3. Minimum Deed Terms

All cooperating entities must agree to the minimum deed terms for the protection of agricultural use. The cooperating entities agree that all present and future use of the property is and will remain subject to all the terms and conditions as identified in Section I and II of the Minimum deed terms. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control. If other sections of the of the ALE have terms and conditions that are consistent with, but more restrictive than the terms and conditions in Section I, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive than Section I Paragraph 4 and Section II then Section I Paragraph 4 and Section II will control.

Non-certified eligible entities have three options for incorporating the ALE minimum deed terms with their easement deeds.

1. **Attach** – An entity can attach the ALE minimum deed terms as an addendum to the entity’s easement deed. This option requires State level verification for each easement transaction that the addendum is unchanged, executed, and attached.
2. **Incorporate** – Entity incorporates the ALE minimum deed terms into the body of the deed using its own tailored deed language. This option requires national level review and approval of individual deeds.
3. **Template** – Entity submits a templated deed which incorporates the minimum deed terms to be used for every transaction. This option requires national level review and approval of the template and state level review of each individual transaction that uses the approved template deed.

#### **Part 4. Documentation Checklist**

- NRCS-CPA 41, "Entity Application for an agricultural Land Easement (ALE) Agreement. A cooperating entity only needs to submit one NRCS-CPA -41
- All attachments and supporting documentation as outlined in Part 1

### Part 1. Parcel Application Information

In order for an application to be eligible for ranking, the following must be completed and submitted before the batching date. If an application is submitted prior to the batching date, but any part of the application components is missing, that application's ranking will be deferred until all application components are submitted. All correspondence regarding this application will use the Parcel/Farm name listed below.

**Parcel/Farm Name:** \_\_\_\_\_

**Estimated Closing Date:** \_\_\_\_\_

### Part 2. Landowner Eligibility Documentation

A. Block and Lot: \_\_\_\_\_

B. Farm and Tract: \_\_\_\_\_

C. Details regarding type of farming operation, length of agricultural history, etc.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Crop production: \_\_\_\_\_

Livestock: \_\_\_\_\_

**D. Eligibility Documents:** Individuals and entities (such as Trusts or Limited Liability Corporations) will complete the appropriate forms, depending upon how land ownership is documented in the deed.

#### **E. Form AD-1026 Compliance with Highly Erodible Land and Wetland**

**Conservation Provisions.** Payment eligibility requires participants and affiliates to file an AD-1026 to develop and use conservation systems on highly erodible land that are planted to annually tilled crops and to be in compliance with wetland provisions of the 1985 Food Security Act (and subsequent Updates). The Farm Service Agency (FSA) maintains these records.

To be eligible for ALE, this form needs to be filed with FSA by the batching date. The AD-1026 must be filed in the name of the legal landowner. However, if a copy is on file with FSA from a previous year, it does not need to be updated unless the land included with the declaration has changed.

Check this box to certify the AD – 1026 will be filed with FSA by the batching deadline.

**F. CCC-941 Compliance with Average Adjusted Gross Income (AGI) Requirements and Consent to Disclosure of Tax Information.** Each individual or entity (such as a Trust or Limited Liability Corporation) that requests program benefits must self-certify their average adjusted gross income for the 3 taxable years preceding the year for which benefits are requested. The CCC-941 form is fiscal year specific and will need to be updated for each application year. The Farm Service Agency maintains these records.

Check this box to certify the CCC-941 will be filed with FSA by the batching deadline.

**G. CCC-901 Member’s Information.** A CCC-901 must be completed and on file for all entity applications (a trust, LLC, corporation, etc.). A CCC-901 is not required when the land is owned by individuals (such as a husband and wife). Each member’s name, full Social Security or Employer Identification Number, address, percentage share of ownership, and signature authority must be provided.

Check this box to certify the CCC-901 will be filed with FSA by the batching deadline.

Not applicable (applying as an individual)

**Part 3. Parcel Information**

Fill in the table below with the appropriate values for the parcel.

	Easement Acres	Percentage of Easement
<b>Total Easement Acres</b>		
<b>Total Prime Soil:</b>		
<b>Total Important Soils:</b>		
<b>Class I and II Soils (Web Soil Survey report available under Suitabilities &amp; Limitations, Land Classifications, Nonirrigated Capability class)</b>		
<b>Contiguous forested acres</b>		
<b>Cropland</b>		
<b>Pastureland</b>		

<b>Grassland</b>		
<b>Current Impervious surface area</b>		
<b>Maximum impervious surface area (if greater than 2%, include waiver request worksheet)</b>		

Is there a current NRCS Conservation Plan on the parcel? (Please attach an official signed copy of the plan.)

Yes  No

Are there any other component plans on the parcel (i.e. Nutrient Management Plan, Forest Management Plan, Comprehensive Nutrient Management Plan, Energy Audit) that are being applied? If yes, please attach a copy with the application.

Yes  No

Does the landowner have a farm succession plan or similar plan established to address farm viability for future generations? Examples include estate plans drafted by an attorney and business plans.

Yes  No

If yes, please attach a copy of the plan.

#### Part 4. Estimate of Matching Funds

Was the Estimated Fair Market Value based on an appraisal?

Yes  No

If yes, attach a copy and indicate the appraisal type:

Full Appraisal

Summary Appraisal

Opinion of value or an Appraisal Consulting Assignment (subject to USPAP regulations for the development and reporting of real property appraisal consulting)

Note: Appraisals are not required for determining the estimated value or easement purchase price. However, summary appraisals are recommended to establish Fair Market Value.

Will 100% of the payment of the agricultural land easement come from the entity's own cash resources or sources other than the landowner?

Yes  No

## Part 5. Qualifying Criteria

Please attach the following applicable qualifying criteria information to this workbook. Only one of the qualifying criteria below is required for the parcel to be eligible for ACEP-ALE. All criteria below, if applicable to the parcel, can be used for ranking purposes. If your parcel qualifies under more than one qualifying criteria, please provide documentation to ensure that all ranking points will be awarded.

### A. Soils

Include a map and table of the prime, unique, statewide, and locally important soils on the parcel. Maps and tables should be clear and legible so that the number of acres of each soil type within the proposed easement boundary can be calculated. If exclusion areas exist adjacent to the proposed ALE boundaries, they must be clearly delineated on the soils map and cannot be included in the calculation of eligible soils.

Note: If a parcel does not meet the 50 percent minimum for soils eligibility, other criteria will be used to determine the suitability of this site to further the ALE program in NJ. The State Conservationist may waive the soils criteria on a parcel-by-parcel basis. Such criteria for suitability may include, but are not limited to existing impervious cover, proximity to Category I waters, existing operation, and proximity to other preserved farms and military bases. Particular emphasis will be placed on soils within the geographical area north of I-78 and west of I-287.

### B. Historical Cultural Resources

Provide documentation that demonstrates the historic or archaeological resources on the property. The documentation needs to show that the sites are listed, were formerly listed, or were determined eligible for listing in the national or state register of historic places. Be sure to provide the book number, page number and date of each listing. The conservation easement deed will need to address the protection of the archaeological or historical resource in order to be eligible for ALE funding.

### C. Grazing uses and related conservation values

Provide documentation that demonstrates grassland, pastureland, land that contains forbs, or shrubland for which grazing is the predominant use or contains Grasslands of special environmental significance as defined in 7 CFR Section 1468.3. Grasslands of special significance contain little or no noxious or invasive species as designated or defined by State or Federal law, are subject to the threat of conversion to nongrassland uses or fragmentation, and the land is 1) pastureland or shrubland on which the vegetation is dominated by native grasses, grass-like plants, shrubs, or forbs, or is improved, naturalized pastureland, and 2) the land provides or could provide habitat for threatened or endangered species or at risk species, protects sensitive or declining native prairie or grassland types, or provides protection of highly sensitive natural resources.

Note: For parcels determined eligible based on protecting grazing uses and related conservation values, the agricultural land easement deed must address the protection of those grazing uses or grassland values. The parcel must have a grasslands management plan included as component of the agricultural land easement plan.

**D. Further a State or local policy consistent with of ACEP**

Provide documentation that demonstrative the land furthers a State or local policy that is consistent with the purpose of ACEP-ALE and the protection of such land must further the State or local policy. For parcels determined eligible based on this type, the agricultural land easement deed must address the ACEP-ALE purposes that are supported by a specific State or local policy.

**Part 6. Important Questions to Consider**

A. Does the landowner wish to subdivide the parcel?

Yes       No

If yes and locations and dimensions are known, proposed parcel should be subdivided and submitted as separate parcels at the time of application. Any potential subdivision opportunities that will be included in the ALE deed must be determined before the appraisal is ordered and valued with the subdivision potential.

Note: If subdivision is allowable within the ALE deed, it does not guarantee future subdivision. If the landowner is looking to subdivide the parcel in the future, the parcels should be submitted as separate applications based upon the future subdivision. If the smaller parcels are ranked high enough to warrant funding, separate conservation easements can be developed on the separate parcels even if the subdivision would not take place for many years. Once the application is submitted and the funds are obligated, it is treated as a whole unit and cannot be subdivided into separate easements.

B. Does the landowner wish to build additional residences on the property?

Yes       No

If yes, the location of the residence is restricted to the building envelope, as specified in the conservation easement, and this residence must be specifically for family working full time on the farm or full time farm workers. If possible, this location should be excluded from the easement area. If the intent of the residence is not to house family working full time on the farm or full time farm workers, the area where this future residence will reside must be excluded from the easement boundaries.

C. Will the land be sold in fee *prior* to closing on the conservation easement deed?

Yes       No

If yes, the land can only be sold to private landowners. Please contact NRCS to verify that the future transfer will not violate the rules and regulations of the ACEP-ALE policy. If the land is transferred prior to closing, the new landowners will need to submit eligibility documents (AGI and HEL/wetlands compliance documentation). The landowner eligibility needs to clear FSA prior to closing on the easement.

D. Does the Entity plan to purchase the land in fee post-closing?

Yes       No

If yes, it is important to note that if the entity will be the Grantee of the ALE conservation easement, then the entity cannot be the fee owner. Even if the time that the entity is both

Grantee and fee owner is only a matter of minutes the easement enforcers cannot hold easement rights on land that they own.

## **Part 7. Additional Mandatory Program Requirements**

A. NRCS staff will conduct a preliminary hazardous materials record search and a field visit of the offered property. The entity is encouraged to attend.

## **Part 8. Checklist**

Required Attachments:

- NRCS-CPA 41A, "Parcel Sheet for Entity Application for an Agricultural Land Easement (ALE) Agreement."
- Completed Parcel Application Workbook
- Location Maps
  - Aerial map with proposed easement boundary and road network. Include any proposed exception areas. Block and Lots, Acreage, and road network needs to be labeled.
  - Aerial map showing the proximity of the proposed easement to other agricultural infrastructure if within 1 mile of the site. Such infrastructure may include retail stores that sell local products, tractor and equipment dealerships and repair facilities, CSAs, Farmer's Markets, or other working farmlands not owned by the applicant.
  - Aerial map showing the proximity to other protected lands within 1 mile of the site. Protected lands include those under conservation easement, town managed forestland, state-owned lands, military bases, etc.
- Copy of the most recent ownership deed(s) demonstrating that the land is privately owned.
- Signed easement offer with parcel legal description covered by the offer
- Soils report and Web Soil Survey map with easement boundary. Include farmland classification report, hydric soils report, and land use report for the easement area.
- If requested by the landowner, Analysis of Maximum Impervious Cover Allowance Waiver Request.
- Signed conservation plan (including Conservation District, landowner, and NRCS representative signatures) if there is an existing conservation plan for the easement parcel.
- Component plans, if available, such as a grazing plan, forest management plan, or nutrient management plan.
- Pre-Ranking worksheet and supporting documentation