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| **ALE Application Checklist FY-2024****Documents to submit to Virginia NRCS State Office** (rev. 7-11-2023)**Agricultural Conservation Easement Program (ACEP) – Agricultural Land Easement (ALE)** |

**Applicant Notes**

**Submitting Applications**

* Electronic copies: send to diane.dunaway@usda.gov and leticia.jackson@usda.gov and obtain a confirmation of receipt.
* Submit as separate documents, not combined into one PDF.
* Materials to be completed & submitted in application package are listed in this checklist. Some items on this checklist overlap with questions in forms CPA-41, CPA-41A. There is no need to repeat this 41 and 41A info elsewhere. Brevity is appreciated.
* Include all documents listed below, if applicable. If any questions on the CPA-41 or CPA-41A necessitate citation, please include documentation in application package.
* To be eligible for USDA program funds, everyone involved in the application must have current fiscal year records with FSA (Farm Service Agency). This includes the applicant organization, landowners, and landowner entity members, down to the individuals. Necessary documents are outlined in separate section. This can take significant time and should be done early.

**USDA FSA Eligibility and Landowner(s) – IMPORTANT – See separate section.**

**Overview of Review Process - See separate section.**

**Frequently encountered issues during application reviews - See separate section.**

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| **ALE Program Agreement Application – for Organization Eligibility*** **IF you already established** a Program Agreement in a prior year, do not send another application, but do send any updates to signature authority or to System for Award Management (SAM).
* Five years is the duration for most Agreements.
* **SEE** Program Agreement Application steps in separate section.
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| **ALE Parcel Contract Application – for Specific Easement Land – Next Page** |

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| **ALE Parcel Contract Application – for Specific Easement Land** * Need a separate Parcel Application for each individual easement area.
* Much of this can be processed concurrently with the Program Agreement application if needed.
* HOWEVER, the Program Agreement must be executed prior to Parcel Contract full consideration.
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**Preliminary ALE application consists of:**

* Parcel Sheet application Form CPA-41A
* Proof of USDA FSA records
* Landowner(s) deed(s) of ownership
* ALE Program Agreement application form CPA-41 (IF organization does not have one established).

[ ]  All Landowners listed on the deed, PLUS individuals who are members of any landowner entity must have **current fiscal year** records established with USDA. Compliance is required for landowners who are entities and also members of the entities, down to each individual.
--- These include a CCC-902 FSA Form for both individual landowners and entity landowner members, and
--- Show they are in compliance with AGI and HELC / WC.

[ ]  Parcel Sheet, signed (Form NRCS-CPA-41A; including italics, footnotes.)
--- Easement compensation: ALE funds (Federal share) cannot exceed 50% of the estimated easement fair market value. The Partner organization’s “matching” 50% can be a combination of items (detailed in the Parcel Sheet CPA 41A, Section D). No cash is required to be part of this match (per 2018 Farm Bill.)

[ ]  Copy of evidence of the landowner’s current legal ownership, such as recorded deeds of ownership or a fully executed purchase agreement.

[ ]  Written pending offer to acquire agricultural land easements for the parcel (letter of intent.)

[ ]  Signature authority documents for Landowner individuals or entities as applicable (power of attorney, articles of incorporation, LLC papers, trust documents, etc.)

If an individual is signing for himself or herself, there does not need to be any other authority, so this is not applicable.  But if someone signs on behalf of someone else or an organization, there needs to be a document showing how they have that authority.
E.g. some landowners may have a family member as a power of attorney.  In that case, we would need a copy of that POA.

[ ]  Map showing location of parcel with roads, latitude, longitude.

[ ]  Evidence and map of legal and physical access to the parcel (ingress, egress.)

[ ]  Aerial map or image showing the proposed parcel boundaries and larger property boundaries if different from the parcel boundaries.

[ ]  A map showing **ONE** of the following, which is the Land Eligibility Category selected on the Parcel Sheet form CPA 41A Box #5.
- Location and acres of the **prime, unique, or statewide and locally important soil** in each parcel
- OR, Location and acres of lands where **grazing uses and related** conservation values would be protected
- OR, Location, number, and acres of **historical or archaeological** sites proposed to be protected
- (Not needed for the category for State or local policy.)

[ ]  **IF** the presence of **historical or archeological** sites is the basis for land eligibility, provide
narrative description of the site’s significance and documentation of the site’s formal listing on the national, Tribal, or State register or eligibility for listing in the national register.

[ ]  **IF** the protection of the parcel will **further a State or local policy consistent with ACEP**, and thisis the basis for land eligibility, provide a narrative description of how the parcel will further this.

[ ]  Map showing location of other protected land in relation to parcel, if applicable.

[ ]  Narrative statement or map showing the
- parcel’s accessibility to agricultural markets
- parcel’s access to existing agricultural infrastructure, on- and off-farm, and other support systems
- threat of conversion or fragmentation (either from non-agricultural development or cropland conversion of grassland) for each parcel.

[ ]  Narrative description of the ownership of subsurface mineral rights and any required water rights for each parcel.

[ ]  Ranking worksheet documentation – For each STATE/ Virginia ranking question, if the Entity believes they should rank highly on a ranking worksheet question, provide documentation corresponding to that question.
OR if documentation is already provided in preceding checklist items, point that out.
Numbering should correspond to Ranking worksheet questions.
NO NATIONAL ranking questions documentation is needed, as they will be researched by NRCS.

**Mapping**

Maps are an essential component of the application. NRCS the State supplied conservation maps as exhibits to contracting documents, Due Diligence Contracts, and submittal of support documentation for Internal Controls. It is important the maps are consistent, clear, and professional to provide quality service.

The map elements listed\* are things to consider for mapping.

* Access Route showing the entire route from the public road to the easement boundary.
* Indicate Point of Access from the public road on the map
* Map symbol legend, clearly labeled with easement program boundary.
* Scale of the map
* Information needed to locate the planning area (e.g. geographic coordinates, public land survey coordinates, address, etc.)
* North arrow
* Appropriate map symbols as needed.
* Map symbol legend on the map or as an attachment include appropriate interpretations, such as roads, streams, boundary, or recorded access.

All maps that state a value for size (acres) should have that value as close as possible to the value listed on the CPA-41A form (Section C, Item 4)

\*These elements are consistent with policy criteria (Section 600.31) located in Title 180 – National Planning Procedures Handbook (180-VI-NPPH, Amend. 8, Nov. 2020).

* Map – Location
* Map depicting location at a scale so that anyone driving can find the site.
* Map should show named roads and location of nearest community.
* It is optional but preferred to have latitude and longitude of the easement location.
* Map - Easement and Parcel Boundary (Offer)
* Map must depict:
	+ The easement boundary and size (acres)
	+ Planned and/or existing farmstead or homestead
	+ Road names or Secondary Road (SR) numbers must be provided.
	+ Ingress/egress to the easement must be shown. This can be shown with a symbol - include symbol in the legend.
	+ Any excluded areas within the easement boundary and area (acres).
* Map-Deed and tax parcel: This is a new map that will identity which deed is associated with a tax parcel which is part of the NRCS easement application review process.
* Map must show the easement boundary and tax parcels.
* Tax parcel and associated deeds must be identified on the map or using a table.
* Map – Impervious Surface
* Map should include: 1) location of the impervious surfaces, and 2) proportion (%) of the impervious surfaces to the area of the easement
* Map – Soils
* The soils map and associated text of the Farmland Classification report in Web Soil Survey (WSS) is preferred. You can use the shape file of the easement in WSS.
* Map – Land use
* Map depicting cropland, rangeland, grassland, pastureland, forestland and proportions (percentages).
* Map—GIS Shape file of easement boundary is helpful, but not required at application time.

**Land Eligibility Category on form CPA-41A Parcel Sheet (Select only one and document.)**

Entity MUST provide documentation (see below) for the ONE category selected out of the four options.

* Has prime, unique, or other productive soil (as identified in Web Soil Survey)
	+ For this to be the basis for eligibility, the parcel offered must have greater than 50% prime, unique, or other productive soil.
	+ Percent of parcel that is prime, unique, or other productive soil (enter percentage and provide map)
* Contains historical or archaeological resources
	+ Provide documentation, including a narrative description of the site's significance and documentation of the site's formal listing on the national, Tribal, or State register or eligibility for listing in the national register. Include map(s) with location, number, and acres of historical or archaeological sites proposed to be protected.
* Contains historical or archaeological resources
* Provides grazing uses and related conservation values
	+ Provide documentation and cite. Include map(s) of location and acres of lands where grazing uses and related conservation values would be protected.
* Furthers a state or local government policy consistent with the purposes of ACEP
	+ Provide documentation and cite policy, to include a narrative description of how the parcel will further the particular policy.

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**Landowner Eligibility with USDA Farm Service Agency (FSA)**

**ALL landowners must have records established with the USDA Farm Service Agency (FSA) that demonstrate legal ownership and USDA compliance.**

**Please work with the regional USDA Service Center FSA in the county where the easement land is located.**

**Ownership includes:**

* All grantees listed on the deed(s)
* Entities as grantees on the deed(s)
* Members of entities on the deed(s)
* Ownership acquired through wills and trusts (needs deeded ownership)

**Compliance with:**

* Adjusted Gross Income (AGI)
* Highly Erodible Land Conservation/ Wetland Conservation (HELC/WC)
* Possess a CCC-902 Farm Operating Plan that has been “Determined” by FSA.

**IMPORTANT - Partners must work with landowners to assure landowners meet qualifying criteria.**

* Under ACEP‐ALE, the landowners of record for the offered easement are considered beneficiaries of payment. Therefore, landowners of record must meet the payment eligibility criteria required to participate in USDA programs, for the land trust or other eligible entity to submit an ALE application on their behalf.
* All individual landowners of record must be United States citizens or resident aliens with a valid social security number (exceptions may apply – contact NRCS immediately).
* All landowners, as listed on the current property deed(s) or equivalent evidence of ownership must be established in the Farm Service Agency (FSA) Service Center Information Management System (SCIMS) and have a copy of the current property deed or other evidence of ownership (e.g., will) including a breakdown of ownership shares, if applicable, when a landowner is an entity.
* All individual landowners or members of an entity of record as listed on the deed(s) must be United States citizens or resident aliens with a valid social security number. (Exceptions may apply – contact NRCS immediately).
* CCC‐902 Farm Operating Plan
* Persons and legal entities applying for and participating in NRCS programs must complete a CCC-902, “Farm Operating Plan”. These are FSA Forms 1) CCC-902I (Individual) or 2) CCC-902E (Entity). A CCC-901E must completed for entities. If individuals are listed on ownership deed(s), they must complete a CCC-902I (this is necessary if they are applying as an individual AND if they are a member of an entity who is applying).
* CCC‐941, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information
* Mandatory for each landowner of record for the fiscal year in which the ALE application will be submitted (no exceptions).
* Entities AND individual members of entities must all complete AGIs.
* AD‐1026, Highly Erodible Land Conservation and Wetland Conservation

For each landowner of record, unless all the following are true:

* An AD‐1026 is currently on file that accurately reflects the current status of the operation.
* The landowner has not acquired any more land (owned or operating).
* There have not been any changes to the land or operation; and
* A new determination has not been requested.
* Power of Attorney
* FSA‐211 form, only if someone other than the landowner of record will be signing documents. It should cover NRCS programs for the period of the ALE contract, or
* Other legally drafted POA by an attorney

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**Frequently encountered issues during application reviews**

Below we address the most common problems in processing easement applications found among the two levels of review.

* Landowner eligibility
* Problems include:
	+ Not all the landowners have records established at the local Farm Service Agency Office.
	+ Landowners who are entities (e.g. LLC, corporations) have members who have not established records at the local Farm Service Agency office.
* Inconsistent easement acreage on application documents.
	+ Inconsistencies in denoting the area (acres) of easements among the various forms and maps submitted as part of an application package. All acreage must be consistent. For example, if an application (CPA-41A) is for 202.1 acres, all maps stating an easement size must equal 202.1 acres.
* Ownership as entered on the CPA-41A application is not the same as the landowner on the deed(s).
* Entities who are landowners or entities as the holder of the easement do not have Signature Authority identified.

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**Overview of Application Review Process**

The NRCS reviews of easement applications spans three levels. Note at any time during the easement application process, one of these reviews could require additional information from the entity or landowner.

1. Virginia State Office:
* Assures all submitted documents are consistent with NRCS easement acquisition polices.
* Enters information in NRCS business tool (Protracts);
* Ranks easements.
* Conducts field reviews.
* Reviews all submitted documents and works with the state office to assure all documents conform to federal and NRCS contracting laws and policies.
* Initiates contracting processes.
1. Field Office:
* Enters information in NRCS business tools (Conservation Assistance Ranking Tool-- CART, Conservation Desktop--CD).
* Assists in field reviews.
1. National-level Internal Controls (IC).
* Provides final review of easement applications.

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| **AFTER Application, NRCS Field Office Staff complete these** |

**After Application, but Needed Prior to Ranking:**

[ ]  Create a case file, a practice schedule and a Planned Land Unit (PLU) in Conservation Desktop (CD), so easement staff can assess and rank the application in the Conservation Assessment Ranking Tool (CART).

[ ]  (State Office staff will complete records in ProTracts and CART.)

[ ]  Landowner disclosure worksheet

[ ]  Hazardous materials landowner interview

[ ]  Hazardous materials field inspection (onsite)

[ ]  Environmental evaluation (Form NRCS-CPA-52); include any necessary associated documentation to comply with NEPA requirements, including date partners’ technical assistance was requested and comments received, if available. This is NOT required at application, but later in acquisition process (for Pre -Closing/Payment Internal Controls review.)

**After Parcel Contract execution obligating funds (Not required for application):**

[ ]  Conservation Plan for Highly Erodible Soils (HEL). This is NOT required at application, but later in acquisition process (for Pre -Closing/Payment Internal Controls review.)

[ ]  Form NRCS-LTP-27 – Preliminary Certificate of Inspection and Possession (for Pre -Payment Internal Controls review.) This is NOT required at application, but later in acquisition process (for Pre -Closing/Payment Internal Controls review.)

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| **After Application, IF Funded, Applicants provide these** |

**After Application, Ranking and Acceptance by Partner of Funding, if Funded:**

[ ]  ALE deed review package

[ ]  Title commitment and supporting documents

[ ]  Appraisal report

[ ]  Conservation Plan for Highly Erodible Soils (HEL), later in acquisition process, prepared or approved by NRCS.

[ ]  Baseline documentation report

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| **ALE Program Agreement Application – for Organization Eligibility*** Agreement may be set up for a five-year duration.
* If you already established a Program Agreement in a prior year, do not resend items # 1-8 unless there needs to be an update.
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* [ ]  Documentation of records – ALE Applicant Organization (holder of easement, e.g. land trust) must have records established with USDA, but compliance with AGI and HELC / WC are not required.
* [ ]  Entity Program Agreement application, signed (Form NRCS-CPA-**41**; see italics, footnotes.)
* [ ]  Documentation of 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.
Land Trust Alliance (LTA) Accreditation documents may already contain this information and can be used for this application.
* [ ]  Documentation of the entity’s capability and record of acquiring, holding, managing, and enforcing conservation easements.
Land Trust Alliance (LTA) Accreditation documents may already contain this information and can be used for this application.
 Documents must include:
- Citation to the State conservation easement enabling statute that the entity will rely on to acquire the agricultural land easement,
- If the entity is a State, local, or Tribal government, then this must include a citation to the entity’s statutory authority to acquire conservation easements consistent with the purposes of ACEP-ALE.
* [ ]  Documentation of the entity’s capacity to monitor and enforce agricultural land easements (ALE or FRPP.)
* [ ]  Direct deposit form for entity.
* [ ]  Screen-print from SAM.gov showing active, current registration. NOTE that Registration in SAM must be maintained for the duration of the agreement and through easement closing.
* [ ]  A DUNS (Dun & Bradstreet) number is required.
* [ ]  Signature authority documents for Applicant Entities (e.g. articles of incorporation, LLC papers, trust documents, etc.)

**Notes**