

**Summary of Statutory Changes Made by the 2014 Farm Bill****Agricultural Conservation Easement Program (ACEP) General:**

- The Agricultural Conservation Easement Program (ACEP) consolidates the provisions from three former NRCS easement programs, the Farm and Ranch Lands Protection Program (FRPP), the Grassland Reserve Program (GRP), and the Wetlands Reserve Program (WRP) into one easement program, ACEP, with two primary components, the Agricultural Land Easements (FRPP and GRP purposes) and Wetland Reserve Easements (WRP purposes).
- Acres enrolled in FRPP, GRP, and WRP considered enrolled in ACEP.
- Requires that an eligible entity or owner of eligible land agree to comply with conservation compliance requirements before they are able to receive ACEP assistance.
- Where State law prohibits permanent easements, ACEP allows the easements to be limited by the maximum duration allowed under State law.
- Adds provisions to target assistance to veteran farmers and ranchers.
- Establishes authority for use of ACEP funds ‘available until expended’ (no-year funds).
- Repeals WRP, GRP, and FRPP but makes remaining balances available for use in completing existing enrollments under the repealed programs.
- Provides authority for modification, subordination, exchange, or termination of ACEP easements and easements enrolled under the predecessor programs.
- Identifies ACEP as a contributing program authorized to accomplish the purposes of the Regional Conservation Partnership Program (RCPP) (Subtitle I of Title XII of the Food Security Act of 1985, as amended).
- Changes average Adjusted Gross Income (AGI) limitation to \$900,000, with no opportunity for a waiver, except through RCPP.

**ACEP-Agricultural Land Easements (ACEP-ALE):** Provides cost-share assistance from NRCS for the purchase of easements on eligible private or tribal agricultural land acquired by eligible entities.

- Expands eligibility to include the protection of grazing uses and related conservation values.
- Easements on grasslands require an eligible entity to acquire the easement, there is no longer an option for the United States to hold grassland easements.
- Changes slightly the calculation of the match requirement from what was required under FRPP, such that partners must contribute a slightly higher proportion from their own cash resources relative to the amount of any voluntary landowner donation towards the purchase of an agricultural land easement.
- Provisions now exist for grasslands of special environmental significance to receive additional ACEP-ALE cost-share assistance.
- Requires all ACEP-ALE easements to be subject to an Agricultural Land Easement Plan, not just conservation plans on highly erodible soils.
- The Agricultural Land Easement Plan must include a grassland management plan component if the easement area includes grasslands.

- Provides the Secretary discretion to require conversion of highly erodible cropland to less intensive uses.
- Introduces an option for NRCS to waive the eligible entity cash contribution requirement for projects of special significance.
- Increases the methodologies that may be used by the eligible entity to determine the fair market value of the agricultural land easement to include appraisals, area-wide market analysis, or other industry approved method approved by the Chief.
- Eliminates the rental agreement option formerly available under GRP.

**ACEP-Wetland Reserve Easements (ACEP-WRE):** Easements on eligible private and tribal lands that are acquired by NRCS directly with eligible landowners to restore, protect, and enhance wetlands.

- Landowners must own eligible land for 24 months, previous ownership requirement was 7-years.
- Enrollment of wetland reserve easements is based upon available funding and not acreage goals.
- Easement installment payment schedule changed. Easements valued at \$500,000 or less may receive at least 1 but not more than 10 annual payments. Easements over \$500,000 may provide a lump sum payment or installment payments in at least 5 but not more than 10 annual payments.
- Allows for NRCS to provide a waiver under certain criteria to enroll lands established to trees under the Conservation Reserve Program (CRP) which was previously prohibited.
- Exempts subclass “w soils” in land capability classes IV – VIII from the county cropland limitation for enrollment in CRP and ACEP-WRE.
- Requires State or other entity to provide 50 percent of the easement cost for wetland reserve easements on croplands or grasslands used for agricultural production prior to flooding from the natural overflow of a closed basin lake.
- Eliminates the 10-year restoration cost-share agreement only option.

**Programmatic Changes Made by the ACEP Final Rule or Policy:**

- Adds definitions for new terms including ALE agreement, at-risk species, future viability, active agricultural production, and grassland.
- Revises definitions for agreement, agricultural land easement plan, dedicated fund, easement payments, grassland of special environmental significance and others.
- Clarifies in the regulation the distinction between the regulatory deed requirements that must be addressed by all certified and noncertified eligible entities, and the specific Minimum Deed Terms that must be used by noncertified eligible entities.
- The Minimum Deed Terms themselves have been updated to:
  - Adds instructions for appending or incorporating ACEP-ALE minimum deed terms into the eligible entity’s conservation easement deed.

- Allows eligible entities to prohibit future division or subdivision of the property without reference to State law provisions in those States where such provisions do not apply.
  - Allows entities to select with more specificity allowable commercial enterprises related to agriculture or forestry and where appropriate, those related to interpretation of historic and archaeological resources.
  - Clarifies that new fences may be installed on ALE grassland enrollments in accordance with the ALE plan.
  - Provides additional instruction on the inclusion of the grassland provisions in the minimum deed terms.
  - Clarifies that for grassland enrollments, any nesting season use limitations will be identified in the ALE plan which is approved by the landowner, the Grantee, and NRCS.
  - Identifies the indemnification and hold harmless provisions that are specific to the Grantor.
  - Revises the environmental warranty language to facilitate landowner disclosure of known environmental compliance issues and remediation actions.
  - Allow for the inclusion of alternative language that could be used to address valuation issues related to Internal Revenue Service charitable contribution issues in the event of extinguishment, termination, or condemnation of the easement.
- United States Right of Enforcement –
    - Increases the period to cure noncompliance issues from 60-days to 180-days
    - Limits the cost-recovery for violations of the Grantee or failure to enforce the easement against the Grantor, to the amount of the United States contribution to the purchase of the agricultural land easement.
  - Cooperative Agreement - The Cooperative Agreement templates have been updated to incorporate additional flexibility and have been standardized for use by all eligible entities interested in participating in ACEP-ALE.
  - Access - NRCS introduced additional flexibility in determining what constitutes legal access allowing State Conservationists to determine sufficiency of alternative legal access to parcels that are only accessible across adjacent federal lands.
  - Incorporates grassland and grazing use considerations into the ACEP-ALE eligibility and ranking factors.
  - Revises the definition of grassland of special environmental significance to clarify that wet meadows and grasslands buffering wetlands may be included and that highly sensitive resources are limited to those identified by the State Conservationist in consultation with the State Technical Committee.
  - Clarifies that eligibility must be determined based on the fiscal year of enrollment.

- Ranking –
  - Expands prioritization of protection of parcels contiguous with other agricultural uses to include parcels that are also proximal to other agricultural uses.
  - Includes additional national ranking criteria specific to grassland, pasture, and rangeland losses as an analog to the same existing criteria for cropland.
  - Expands the multifunctional conservation values that can be prioritized in the State ranking criteria to also include enhancing carbon sequestration, improving climate change resiliency, protecting at-risk species, or other related conservation benefits.
  
- Projects of Special Significance – NRCS developed criteria and a waiver process for adjustments to the eligible entity cash contribution requirement for projects of special significance. NRCS expanded options for what constitutes a project of special significance to include:
  - Parcels within a special project area being offered pursuant to a comprehensive plan approved by the State Conservationist.
  - Parcels that are part of a comprehensive plan to facilitate transfers to new and beginning farmers.
  - Parcels that are part of a conservation buyer transaction where a member of an underserved community, veteran, beginning farmer or rancher, or a disabled farmer or rancher has a valid purchase agreement to buy the parcel to be protected by the easement.
  - Parcels with an existing Resource Management System (RMS) level plan with NRCS practices already applied or under existing contract to be applied consistent with ACEP-ALE purposes.
  
- ALE Plans –
  - All ALE enrollments will be subject to an Agricultural Land Easement Plan.
  - NRCS has identified the conditions under which the various components plans are required and how those components are to be incorporated into the ALE plan.
  - Clarifies that the agricultural land easement plan must be approved by NRCS, the landowner, and the grantee.
  
- WRE Agreements -- The standardized expiration date for ACEP-WRE purchase agreements under policy will be modified beginning in FY 2017 to allow additional time for closing.