

ALEP TEMPLATE

AGRICULTURAL LAND EASEMENT PLAN

FY2016 WASHINGTON STATE

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I. ALEP Overview and Requirements

A. General

The ACEP Manual Title 440 Part 528.63 provides the requirements and guidance for Agricultural Land Easement Plans (ALEPs). The Manual may be found at the following link:

<http://directives.sc.egov.usda.gov/viewerFS.aspx?hid=36843>

(1) All ACEP-ALE easements must be subject to an agricultural land easement plan (ALEP) and may also require component plans to address specific land uses or resource concerns on the parcel (ACEP Manual 528.63). At a minimum all ALEPs must—

(i) Describe the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired, this may include a farm or ranch succession plan.

(ii) Include a description of the farm or ranch management system, and, if applicable, irrigation water right volumes needed for the agricultural activity on the easement. The ALEP may incorporate or refer to information from baseline documentation reports, as appropriate.

(iii) Identify required and recommended conservation or management practices that address the purposes and resource concerns for which the parcel was selected, such as those identified on the ALE ranking sheet, the land eligibility determinations, waiver requests, the cooperative agreement or deed, or other project documents. The ALEP may incorporate or cross-reference practices identified in other plans, such as an organic systems plan for organic operations, a comprehensive nutrient management plan for animal feeding operations, or care of historic sites for easements with historical or archeological resources.

(iv) Identify additional or specific criteria associated with permissible and prohibited activities consistent with the terms of the deed. For example, if a deed specifies that the location of the building envelope may be adjusted if it does not adversely affect the agricultural resources, the ALEP should describe the agricultural resources and how they may be impacted by construction of structures. Not every ALEP will need to specify additional or specific criteria for deed terms; whether such criteria are required should be determined by NRCS based on the agricultural resources present on the property and the clarity of the deed restrictions.

(v) Establish a limit on the impervious surfaces to be allowed consistent with the farm or ranch management system and consistent with the limitations identified in the deed.

(vi) If the parcel includes grassland, highly erodible land (HEL) or forest land, a component plan must be incorporated by reference into the ALEP. Conservation or management practices or activities included in an attached component plan do not need to be identified separately in the ALEP.

Component plans must be developed for each land use type present on the parcel, as follows:

- A grasslands management plan is required if the parcel meets the land eligibility criteria in section 528.33B(3) of the ACEP Manual. An ACEP-ALE grasslands management plan must meet the requirements identified in section 528.63B of the ACEP Manual.
- A conservation plan is required if the parcel contains HEL. Additionally, where appropriate, the conservation plan may include conversion of highly erodible cropland to less intensive uses. An ACEP-ALE conservation plan must meet the requirements in section 528.63C of the ACEP Manual. NRCS or another NRCS-certified planner is responsible for assisting with the development of an HEL conservation plan.
- A forest management plan is required if the parcel contains contiguous forest that exceeds the greater of 40 acres or 20 percent of the total easement area. A forest management plan must meet the requirements in section 528.63D of the ACEP Manual.

(2) The eligible entity is responsible for providing the ALEP and any required component plans to NRCS for the agency's review and approval. The eligible entity may elect to have NRCS or a qualified third party develop the required plans. State Conservationists must ensure the plans address the minimum criteria identified in this part, whether the plan is developed by NRCS or a third party.

(3) If the eligible entity requests NRCS to develop the plans, this should be identified in the cooperative agreement. NRCS is authorized to provide direct technical assistance for NRCS to develop the plans. If NRCS develops the plans, it will be done so in consultation with the eligible entity and the landowner and in accordance with Title 180, National Planning Procedures Handbook (NPPH), Part 600, and the NRCS Field Office Technical Guide (FOTG). State Conservationists must work with the entity to ensure planning is requested and occurs with sufficient time to allow NRCS to complete and for the entity and landowner to review and sign the plans prior to easement closing.

(4) If a third party develops the ALEP, it is at the eligible entity's own expense. NRCS review and approval of the ALEP developed by a third party is as follows:

(i) For cooperative agreements with noncertified entities, the ALEP must be approved by NRCS and signed by the landowner and the eligible entity prior to easement closing.

(ii) For grant agreements with certified eligible entities, the ALEP must be signed by the landowner and the eligible entity prior to easement closing. NRCS review of the ALEP will occur after acquisition in accordance with the terms of the grant agreement and as part of the quality assurance review process. The eligible entity may request NRCS review and approval of the ALEP prior to closing.

(5) The eligible entity is responsible to ensure compliance with any required provisions of the agricultural land easement plan.

B. Grasslands Management Plan Component Requirements

(1) The grasslands management plan must describe the grassland types on the easement area and the management systems and practices needed to conserve, protect, and enhance the viability and functions and values of those grasslands. The functions and values of grasslands are the ecosystem

services provided, including but not limited to domestic animal productivity, biological productivity, plant and animal richness and diversity, fish and wildlife habitat (including habitat for pollinators and native insects), water quality and quantity benefits, aesthetics, open space, and recreation.

(2) The grasslands management plan must include—

(i) A baseline description of the grassland resource, to include the species components of the grassland, such as an ecological site description or, at minimum, a brief description of the grassland species composition.

(ii) A description of the grassland management system consistent with NRCS practices contained in the eFOTG, including the prescribed grazing standard for easements that will be managed using grazing.

(iii) The management of the grassland for grassland-dependent birds, animals, water quality and quantity benefits, or other resource concerns for which the easement was enrolled.

(iv) The permissible and prohibited activities.

(v) Any associated restoration plan or conservation plan.

(3) The grasslands management plan may be updated and amended as necessary to include management changes for protection of grassland resources as needed. Changes to the grasslands management plan must be consistent with ACEP policy and maintaining the grassland resources.

(4) At a minimum, the grasslands management plan must be reviewed during the annual monitoring of the easement by the eligible entity to determine if the current grassland management is consistent with the plan and the changes to the plan are needed.

C. Conservation Plan Component Requirements

(1) At the time of application, every parcel landowner must file a Form AD-1026, "Highly Erodible Land and Wetland Conservation Certification," at the local USDA service center. By signing the AD-1026, the each landowner certifies that they are in compliance with HEL and wetland conservation (WC) provisions on all farms or ranches in which the landowner has an interest. The AD-1026 gives NRCS authorization to enter upon and inspect the property for the purpose of confirming HEL and WC compliance. NRCS must confirm all landowner HEL/WC eligibility requirements are met at the time of obligation and again prior to payment.

(2) Where highly erodible croplands are included in the enrollment, a conservation plan component of the agricultural land easement plan will be developed by NRCS or an NRCS-certified planner in accordance with the provisions outlined in Title 180, National Food Security Act Manual (NFSAM), and the NPPH. Implementation of any provisions required under the conservation plan must occur within one year unless the State Conservationist grants an extension due to conditions beyond the landowner's control.

(3) The conservation plan may require conversion of highly erodible cropland to less intensive uses. All such plans must be reviewed and approved by NRCS and signed by the landowner and the eligible entity prior to closing.

(4) The conservation plan is considered "up-to-date" as long as there are no changes to the agricultural operations on the parcel. If there are changes the agricultural operations on the parcel, the conservation plan must be updated. The eligible entity and landowner must update the plan in the event the agricultural uses of the property change.

(5) The eligible entity must report any changes in the agricultural operation from the previous year on its annual monitoring report. If a change in operations is reported, the eligible entity must instruct the landowner to schedule an appointment with NRCS to have the conservation plan updated within 12 months. If, at the time of the next annual monitoring report, the landowner has not obtained an updated conservation plan (and it is not due to inaction by NRCS), then the landowner is in violation of the provisions of the agricultural land easement and the eligible entity is responsible to bring the landowner into compliance.

(6) NRCS will monitor the status of the conservation plan in accordance with HEL/WC status review requirements. Prior to entering the protected property, NRCS will notify the landowner in accordance with NFSAM procedures.

(7) A violation of the conservation plan will be considered a violation of the agricultural land easement, once all appeal rights have been exhausted. (See section 528.92 for violation procedures.)

D. Forest Management Plan Component Requirements

(1) A forest management plan component is necessary if the ACEP-ALE enrollment contains contiguous forest that exceeds the greater of 40 acres or 20 percent of the easement area.

(2) The forest management plan component describes the management system and practices to conserve, protect, and enhance the viability of the forest land. A forest management plan component contains a brief description of the forest land with a map identifying the forest land area.

(3) The forest management plan component must provide a description of how the forest contributes to the economic viability or how the forestland serves as a buffer to protect from development along with the any management components needed to maintain the economic viability or buffer status.

(4) Forest management plans may include a forest stewardship plan, as specified in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. Section 2103a), another practice plan approved by the State Forester, or another plan determined appropriate by NRCS. The plan complies with applicable Federal, State, Tribal, and local laws, regulations, and permit requirements. The forest management plan will also include any reference to current private, industry, State, or local forest management plans that the enrolled forest area is currently under. A copy of the referenced plans may be included if available.

(5) At a minimum, the forest land management plan must be reviewed during the annual monitoring of the easement by the eligible entity to determine if the current grassland management is consistent with the plan and the changes to the plan are needed.

E. Agricultural Land Easement Plan Practice Implementation Cost Share Sources

(1) Landowners may pursue cost-share assistance to implement conservation practices identified in the agricultural land easement plan through other USDA conservation programs, such as the—

- (i) Agricultural Management Assistance Program (AMA).
- (ii) Conservation Reserve Program (CRP) where authorized by FSA.
- (iii) Conservation Stewardship Program (CSP).
- (iv) Environmental Quality Incentives Program (EQIP).
- (v) Regional Conservation Partnership Program (RCPP).

(2) The availability of financial assistance for a landowner through the above-mentioned programs is subject to the eligibility requirements, policies, and procedures of the individual programs.

(3) ACEP-ALE is not authorized to provide cost-share assistance for the installation or implementation of conservation practices.

II. Suggested ALEP Template Format

- (i) Identification of the parcel name, legal description, general location map, acreage

- (ii) Description of activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired, this may include a farm or ranch succession plan.

- (iii) Description of general farm or ranch management system. (The ALEP may incorporate or refer to information from baseline documentation reports, as appropriate)

- (iv) Required conservation or management practices that address the purposes and resource concerns for which the parcel was selected (reference to the applicable Parcel Eligibility and Ranking Worksheet). Required practices will include those identified in the RMS plan as being necessary for Threatened and Endangered or Species of Concern protection when these species, or a USFWS Designated Critical Habitat polygon, are found on the parcel to be protected at the time of easement closing. Practices identified in the RMS plan as being required must be implemented within 10 years of the date of easement closing. NRCS technical standards in place at the time of easement closing will be the guide for required practice design, installation and maintenance.

Recommended conservation management system(s) and practices from the Resource Management System Plan (reference to the RMS plan approved by the NRCS)

- (v) Specify additional or specific criteria associated with permissible and prohibited activities consistent with the terms of the deed.

- (vi) Establish a limit on the impervious surfaces to be allowed consistent with the farm or ranch management system and consistent with the limitations identified in the deed.

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Commented [KD-NSW2]: New language added to clarify when T&E required practices will be in the RMS plan

Commented [KD-NSW3]: New language added to clarify when RMS plan will require T&E practices and the time period for performance.

Commented [KD-NSW4]: New language clarifying technical standards used for required practices

(vi) If the parcel includes grassland, highly erodible land (HEL) or forest land, a component plan must be incorporated by reference into the ALEP. Component plans must be developed for each land use type present on the parcel, as follows:

- Grasslands Management Plan (reference the plan or indicate Not Applicable-N/A)
- Highly Erodible Land (HEL) Conservation Plan (reference the plan or indicate Not Applicable-N/A)
- Forest Management Plan (reference the plan or indicate Not Applicable-N/A)

III. Links to NRCS Online Technical Resources

ACEP Manual

<http://directives.sc.egov.usda.gov/viewerFS.aspx?hid=36843>

National Planning Procedures Handbook (NPPH)

<http://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=36483.wba>

NRCS Electronic Field Office Technical Guide (eFOTG)

http://efotg.sc.egov.usda.gov/efotg_locator.aspx?map=

National Food Security Act Manual (NFSM)

<http://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>

Conservation Stewardship Program (CSP)

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/wa/programs/financial/csp/>

Environmental Quality Incentive Programs (EQIP)

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/wa/programs/financial/eqip/>

Regional Conservation Partnership Program (RCPP)

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/wa/programs/farmland/rcpp/>