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Agricultural Conservation Easement Program Agricultural Land Easements

March 8, 2018 Jerome Faulkner, PhD

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Program Overview



Agricultural Conservation Easement Program (ACEP)

Two Components:

Wetland Reserve Easements (WRE)

Agricultural Land Easements

ACEP Agricultural Land Easements (ALE)

Provide cost share assistance to eligible entities to purchase agricultural land easements in eligible land



ACEP-ALE



Purposes:

Protect agricultural use and future viability and related conservation values by limiting nonagricultural uses of the land

Protect grazing uses and related conservation values by restoring and conserving land



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Cost-share assistance

Cost share cannot exceed 50% of the fair market value of the easement.

Typically determined by appraisal

Entity must provide an amount at least equivalent to the Federal share.

Entity may include a Qualified Conservation Contribution from the landowner if the entity contributes cash at least 50% of the Federal share.



Cost-share and match

No requirement for landowner donation.

Entity contribution must be cash and come from source other than the landowner.

Entity contribution cannot include land from another parcel or in kind contributions.



Exceptions to cost-share

Grasslands of Special Environmental Significance.

Waiver granted to allow up to 75% cost-share

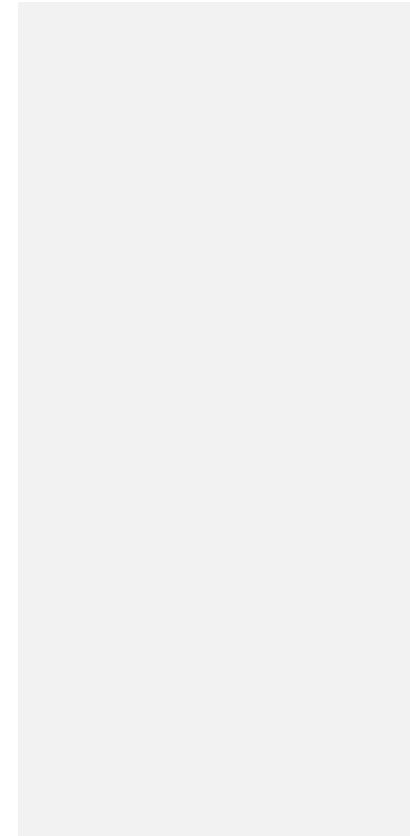
Projects of Special Significance.

Waiver granted to allow increased landowner donation towards entity share

Determined based on site specific information



Questions



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Funding



ACEP Farm Bill Funding Levels

FY2017	\$500 Million \$333 Million available
FY2018	\$250 Million \$172 Million available

ACEP-ALE Allocation of Funds to States

FY2017	\$115 Million in Financial Assistance
FY2018	\$60 Million in Financial Assistance



Allocation Process



State Resource Assessment

States provide input on their program needs
General, Initiatives, and Future Directions

Prior year performance

Obligation history
Return of funds
Capacity and program growth

Available funds

Agency goals and objectives
Leadership input and review of recommendations

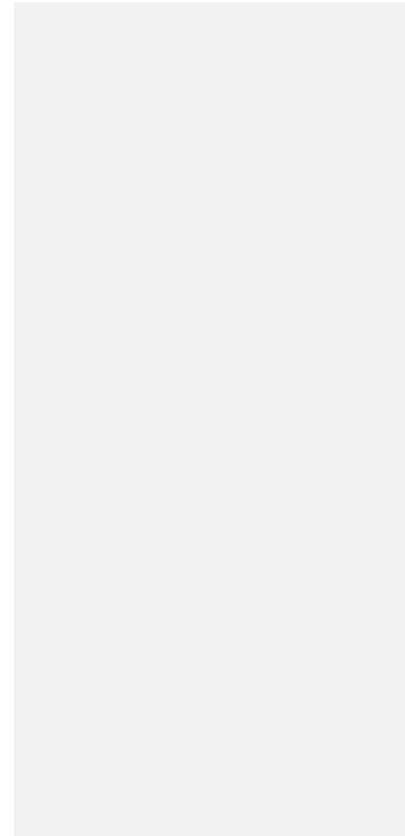


Application and Selection Process

- Applications evaluated by NRCS state offices
- Each State has Ranking Criteria for Resources of Concern
- Ranking cutoff dates set by state
- Funding given to states at beginning of FY
- Announce and evaluate applicants
- Ranking based on 400 total points
 - 200 points National Criteria
 - 200 points State developed criteria
- Select funded parcels
- Enter into agreements with entities



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Easement Requirements

Eligible entity will acquire, hold title to the ALE, manage, monitor and enforce the easement

Agreements provide the responsibilities of the entity and NRCS

Survey

Baseline

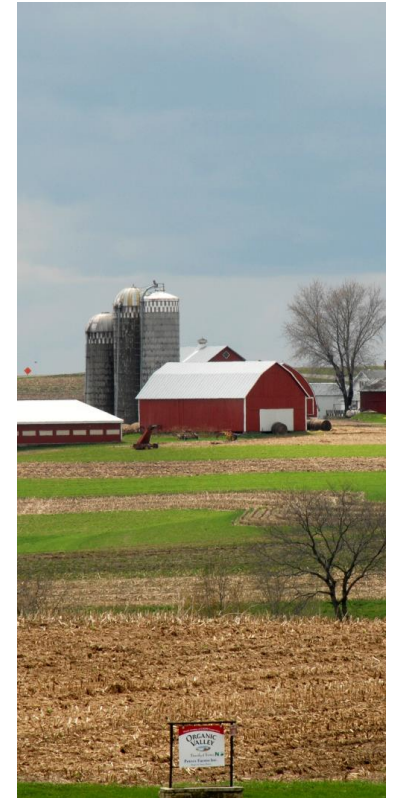
Impervious Surface

Building Envelope

Subdivision

Deed Requirements

ALE Plan



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Surveys



Must comply with the survey standards in the State

Must obtain a boundary survey and legal description if any of the following apply:

Easement area is less than or only a portion of the entire property described in the current legal descriptions of record

Current legal description is not accurate.

The ACEP-ALE funds are being used to protect less than the entire area protected by a larger conservation easement and the current legal description does not match the ACEP-ALE portion.



Baseline Report



A baseline documentation report is developed for each parcel prior to closing

The baseline report must be incorporated into the agricultural land easement deed by reference

The baseline documentation report must contain maps and full descriptions and pictures of items including but not limited to property location, land use, land cover and its condition

Manual exhibit provides baseline documentation report items



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Impervious Surface



Limitation on impervious surface must be included in deed

Will not exceed 2 percent of the easement area, excluding NRCS-approved conservation practices.

State Conservationist may waive up to 10%

Individual parcel by parcel basis

Defined as material that does not allow water to percolate into the soil on the parcel; this includes, but is not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs



Building Envelope



Building envelopes must be identified:

Map of existing

Map of proposed building envelopes

Statement of no building envelope

NRCS allows allow buildings envelopes to be located after closing

Deed specifies the number

Requires State Conservationist approval of the location prior to construction.



Subdivision

Ranking and evaluation take subdivisions options into account

Three options:

No Subdivision

Pre-approved subdivision

Allowed with NRCS and entity approval after closing



Deed Requirements



ALE Minimum Deed Terms addendum

Addresses the regulatory deed requirements that NRCS requires for ALE easements

Attached to the Cooperative Agreement

Three options for use

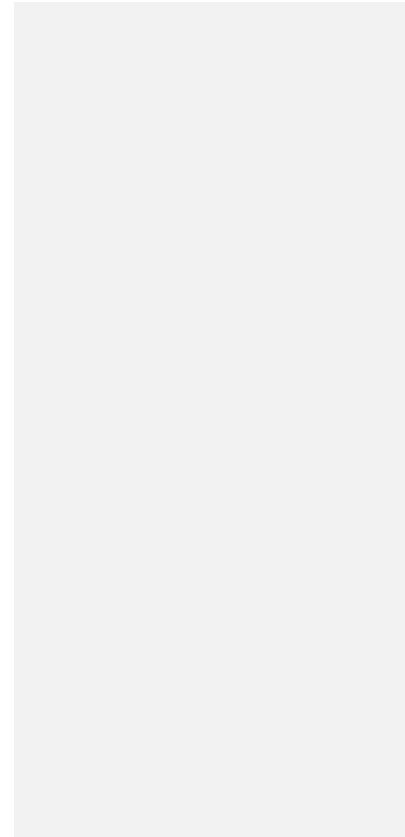
Attach

Incorporate

Template



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ALE Plans



Statutory requirement

All ACEP-ALE easements must be subject to an agricultural land easement plan

Regulatory definition at 7 CFR 1468.3:

Describes the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired.

Agreement provides two options:

**Developed by NRCS or
provided by entity and approved by NRCS**

ACEP Manual details the ALE plan requirements

ACEP Manual available on eDirectives

<https://directives.sc.egov.usda.gov/>



Composition of ALE Plans

Describe activities which promote the long-term viability of the land to meet purposes for which easement was acquired

Describe the farm or ranch management system

Required or recommended conservation or management practices

Permissible and prohibited activities consistent with the terms of the deed

**Establish a limit on the impervious surfaces
Incorporate component plan by reference**



Component Plans



If grassland, highly erodible land (HEL), or forest land are included in the easement area, a component plan must be incorporated into the ALE Plan by reference

A grasslands management plan is required if the parcel contains grassland or meets land eligibility for grassland

A conservation plan is required if parcel contains HEL land

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



ALE Plan Review



NRCS must ensure the plans address the ALE policy requirements, whether the plan is developed by NRCS or a third party.

NRCS will review the entity-developed ALEP for compliance with ACEP program requirements.

A certified planner is not required to sign off on ALEPs that are completed by the entity.



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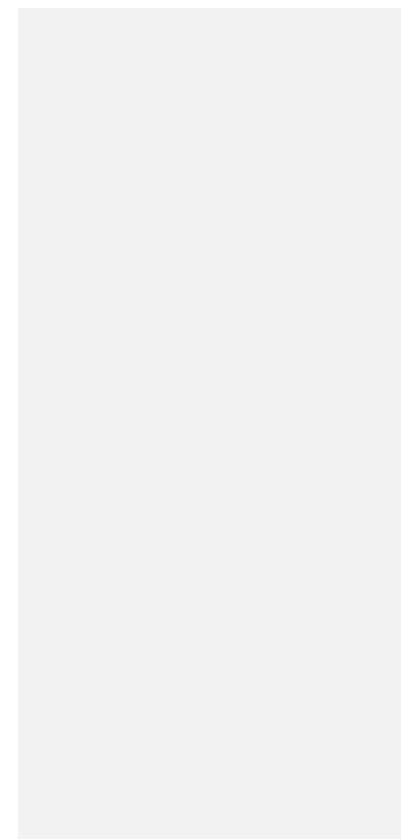
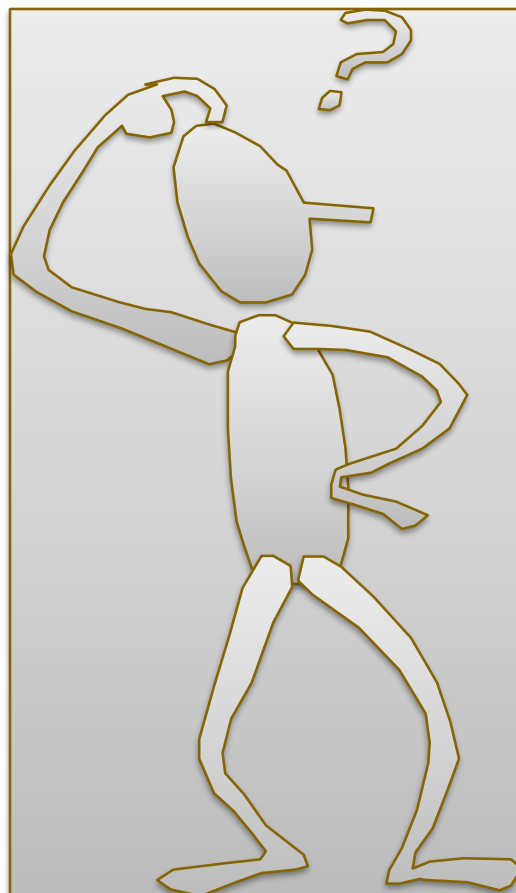
ALE Plans



- **ALE Plans are living documents and should be updated as the Farm Management Systems change or as landowner's work to address resource concerns**
 - NRCS, Landowner, and Entity approval is required for changes and updates to the plan



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