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AGRICULTURAL CONSERVATION EASEMENT PROGRAM

Conserving wetlands, grassland, and farm and ranch land through long-term conservation easements

Endangered by encroaching development and extreme weather events, wetlands and grasslands are some of our most threatened national land resources. Productive farmland is also increasingly disappearing due to these, and many other, threats. The Agricultural Conservation Easement Program (ACEP) helps to protect these vital lands by enabling private landowners, land trusts, and other entities to preserve working farms and ranches and restore, protect, and enhance wetlands and grasslands through long-term easements.

Learn More About ACEP:

- **Program Basics:** Learn more about how this program works
- **Eligibility:** Find out who can utilize this program
- **The Program in Action:** Read success stories from those who have used this program
- **How to Apply and Program Resources:** Learn more about the application process and where to find more information
- **Program History, Funding, and Farm Bill Changes:** Learn about important policy changes and funding levels provided by the Farm Bill
- **En Español:**
(<http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/enespanol/ley2014/?cid=stelprdb1256841>) Este documento no refleja los cambios de la Ley Agrícola del 2018

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Program Basics

Created in 2014, ACEP is a conservation easement program that combines three previously separate easement programs — the Wetlands Reserve Program (WRP), Grassland Reserve Program (GRP), and Farm and Ranch Lands Protection Program (FRPP). ACEP helps landowners to permanently protect wetlands, grasslands, and farm/ranchlands on their properties.

ACEP is administered

(<http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/acep/>) through the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) and is divided into two tracks: a wetland easement component and an agricultural land easement component. The wetland easement component largely mirrors the former WRP, while the agricultural land easement component largely retains the purposes and functions of the former GRP and FRPP.

Wetland Easements Component

The purpose of the **Wetland Reserve Easement (WRE)** component is to restore, protect, and enhance wetland values and functions on wetlands that have been in agricultural production. The program is competitive, with landowners submitting bids to USDA for enrollment. Agricultural landowners have two easement options through WRE – permanent and long-term (generally 30 years).

For permanent wetland easements, USDA will pay the lowest of:

- The fair market value of the land, as determined by USDA, using the Uniform Standards of Professional Appraisal Practices.
- An area wide market analysis or survey.
- An offer made by the landowner.

For a 30-year easement, NRCS provides between 50 and 75 percent of the compensation that would be paid for a permanent easement. For easements valued at \$500,000 or less, payments may be provided in lump sum or in no more than 10 annual installments. For easements valued at more than \$500,000, payments must be made in at least 5, and not more than 10, annual installments.

ACEP's wetlands component also includes a wetlands reserve enhancement partnership option (formerly known as the Wetlands Reserve Enhancement Program, WREP) through which NRCS partners with states, non-governmental organizations, or Native American Tribes to protect, restore, and enhance high priority wetlands.

As with the original WREP, producers can retain grazing rights as part of a wetland easement if the grazing activity is consistent with long-term wetland protection and enhancement goals for which the easement was established. The easement payment would be reduced by an amount equal to the grazing value.

Visited on 10/24/2020

For projects of “special significance” (which is not defined in the farm bill and is different than “grasslands of special significance”), USDA may waive any portion of an eligible entity’s cash contribution requirement, so long as the landowner donates an amount equal to the waiver.

Agricultural Land Easement Component

The purpose of the **Agricultural Land Easement (ALE)** component is to protect farms and ranches from development, specifically to ensure farm viability for future generations, and to conserve grazing land, including rangeland, pasture and shrub land.

For agricultural land easements, NRCS can provide up to 50 percent of the fair market value of the easement. Eligible entities can now include cash contributions, landowner contributions, or other non-USDA federal funding to satisfy the matching funds requirement.

For grasslands of special environmental significance, NRCS may contribute up to 75 percent of the fair market value of the easement.

The 2018 Farm Bill removed the requirement that all agricultural land easement enrollments under ACEP must have an Agricultural Land Easement Plan. Instead, a conservation plan is only required for any portion of the agricultural land easement that is highly erodible cropland.

In evaluating ALE applications, the 2018 Farm Bill adds a new priority on those easements that maintain agricultural viability. This priority includes easements that allow a producer to: productively operate a farm or ranch on the protected land; maintain the long-term affordability of the protected land; maintain an economically sustainable farm business on the land; and maintain the land in a way that enables its agricultural use for future generations.

Additionally, the new farm bill also allows for entities holding an ALE to add deed terms that address mineral development. In instances when mineral development rights are reserved and exercised under ACEP, the activity should be consistent with the conservation and agricultural purposes of the land and all provisions of the program.

Eligibility

Under the agricultural land easement track, ACEP funds are provided to non-profits (such as land trusts), state and local agencies, and Indian tribes to purchase easements. Agricultural land easements are permanent; in states that do not allow permanent easements, the easements will be as long-term as allowed by law.

In contrast, funding for wetland easements (apart from wetland reserve enhancement projects) goes directly to landowners for the purchase of permanent or 30-year easements. Additionally, in order to qualify for a Wetland Reserve Easement (WRE), the proposed easement must meet one or more of the following designations:

- Farmed or converted wetlands, together with adjacent land that is functionally dependent on that land

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- Flooded cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of either a closed basin lake or a pothole
- Farmed wetlands and adjoining lands that are enrolled in the Conservation Reserve Program (<https://sustainableagriculture.net/publications/grassrootsguide/conservation-environment/conservation-reserve-program/>) (CRP), have high wetland functions and values, and would return to production after they leave CRP
- Riparian areas that link protected wetlands
- Other wetlands that would not otherwise be eligible, if USDA determines that the inclusion of such wetlands would add to the functional value of the easement

In order to qualify for an Agricultural Land Easement (ALE), the proposed easement must:

- Be subject to a pending offer for purchase of an agricultural land easement from an eligible entity or through a buy-protect-sell transaction
- Have prime, unique, or productive soil, and meet one of the following criteria:
 - Contain historical or archaeological resources
 - Protect grazing uses by restoring and conserving land
 - Further a State or local policy consistent with the purposes of the program

The proposed easement must also be one of the following:

- Cropland, rangeland, or grassland
- Land that contains forbs or shrub land for which grazing is the predominant use
- Located in an area that has been historically dominated by grass-land, forbs, or shrubs and could provide habitat for animal or plant populations of significant ecological value
- Pastureland or nonindustrial private forestland that contributes to the economic viability of an offered parcel or serves as a buffer to protect such land from development

The Program in Action

Since the creation of ACEP in 2014, NRCS has obligated more than \$1.8 billion in financial and technical assistance to support the preservation of nearly 800,000 acres through agricultural and wetland easements. Prior to the creation of ACEP (between 1990 and 2014), producers and partners protected over 2.6 million acres of wetlands, 1.1 million acres of farmland, and 340,000 acres of grassland through ACEP's predecessor programs – WRP, FRPP, and GRP.

ACEP has been used to:

- Protect and restore prairie pothole wetlands and associated tallgrass prairie uplands in the Great Plains
- Acquire and restore wetlands in high-priority, small watersheds in Kentucky to reduce sediment and nutrients entering the Mississippi River

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- Protect ranches in the Pioneer Mountain region of Idaho, connecting sage grouse habitat to millions of acres of public land
- Helped farmers and ranchers keep their land in agriculture across the country
- Generate recreational benefits, such as hunting, hiking, canoeing

Read more about how ACEP can help conserve grasslands and wetlands:

- NRCS ACEP Information (<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/acep/>)
- ACEP Data Analysis on the NSAC blog (<https://sustainableagriculture.net/blog/acep-analysis-fy2016-data/>)

How to Apply and Program Resources

Farmers, ranchers, and partners interested in ACEP should contact their local NRCS office and/or refer to the following resources:

- NRCS local office locator (<http://offices.sc.egov.usda.gov/locator/app>)
- National NRCS Website (<http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/programs/easements/acep/?cid=stelprdb1242695>)
- ACEP Deed Terms and Program Manual (<https://directives.sc.egov.usda.gov/OpenNonWebContent.aspx?content=40739.wba>)

For farmers and landowners interested in placing an agricultural land easement on their farm or ranchland, they may also contact their local land trust or state agriculture or conservation department or agency. The land trust or other eligible entity will then work with the farmer or landowner and NRCS to obtain funding for the easement.

The application process for ACEP is competitive. Applications are ranked based on criteria developed by both the NRCS National Headquarters and NRCS State Conservationists. For both components of the program, the farm bill authorizes USDA to prioritize applications that include acres that will expire within a year from the Conservation Reserve Program.

Read about the latest news on ACEP (<https://sustainableagriculture.net/category/conservation-energy-environment/>) and other conservation programs on NSAC's blog.

Program History, Funding, and Farm Bill Changes

The 2014 Farm Bill created ACEP by combining WRP, FRPP, and GRP, which Congress first authorized in the 1990, 1996, and 2002 Farm Bills, respectively. The 2018 Farm Bill retained ACEP with very few policy changes and largely restored funds cut in the 2014 Farm Bill.

The 2018 Farm Bill, however, does not dictate how ACEP funding should be divided between wetland easements and agricultural land easements – that decision is left to USDA. USDA has historically allocated funding based on demand.

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Prior to the creation of ACEP, the 2008 Farm Bill provided an average of \$410 million per year for WRP, \$65 million per year for GRP, and \$150 million per year for FRPP. The 2014 Farm Bill's consolidation of these programs resulted in a significant cut to total funding available for easements. Thankfully, the 2018 Farm Bill nearly restored easement funding to historic levels, providing \$450 million per year for ACEP, as illustrated in the chart below.

The 2018 Farm Bill also retains the established structure of ACEP, making a limited number of policy and structural changes. For example, the new farm bill expands ALE eligible to include buy-protect-sell transactions, which allow land owned by an organization to be eligible for ACEP, subject to the transfer of ownership to a farmer or rancher within three years following the acquisition of the agricultural land easement. It also adds a new priority for applications for the purchase of an agricultural land easement that maintains agricultural viability of the land.

Additionally, the new farm bill allows for entities holding an ALE to add deed terms that address mineral development. Within ALE, the 2018 Farm Bill also removes the requirement that an easement be subject to an agricultural land easement plan, unless the land is highly erodible. The bill does, however, include report language encouraging USDA and eligible entities to work with landowners entering into an ALE easement to undertake conservation planning activities on the land in order to maximize the environmental value of the protected land.

In terms of the WRE component of ACEP, the 2018 Farm Bill includes additional provisions within guidance provided for a WRE plan to protect and enhance the wetland functions and values of land currently enrolled in WRE. The farm bill also includes direction around the establishment or restoration of a hydrologically appropriate native community or alternative naturalized vegetative community as part of a wetland easement, in order to support or benefit wetland wildlife.

Agricultural Conservation Easement Program Funding

Fiscal Year	Total Funding Available (\$ millions)
2019	\$450
2020	\$450
2021	\$450
2022	\$450
2023	\$450
5 yr total	\$2,250
10 yr total	\$4,500

Visited on 10/24/2020

Please note: The funding levels in the chart above show the amount of mandatory funding reserved by the 2018 Farm Bill for this program to be provided through USDA's Commodity Credit Corporation. However, Congress does at times pass subsequent appropriations legislation that caps the funding level for a particular year for a particular program at less than provided by the farm bill in order to use the resulting savings to fund a different program. In addition, ACEP is subject to automatic cuts as part of an annual sequestration process established by the Budget Control Act of 2011. Therefore, despite its "mandatory" status, the funding level for a given year could be less than the farm bill dictates should the Appropriations Committees decide to raid the farm bill to fund other programs under its jurisdiction.

For the most current information on program funding levels, please see NSAC's Annual Appropriations Chart (<https://sustainableagriculture.net/our-work/campaigns/annual-appropriations/>).

Authorizing Language

Title II, Subtitle F (Section 2601) of the Agriculture Improvement Act of 2018 amends Title XII of the Food Security Act of 1985, to be codified at 16 U.S.C. Section 3865.

Last updated in July 2019.

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Visited on 10/24/2020

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CONSERVATION LOANS
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CONSERVATION STEWARDSHIP PROGRAM
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ENVIRONMENTAL QUALITY INCENTIVES PROGRAM
([HTTPS://SUSTAINABLEAGRICULTURE.NET/PUBLICATIONS/GRASSROOTSGUIDE/CONSERVATION-ENVIRONMENT/ENVIRONMENTAL-QUALITY-INCENTIVES-PROGRAM/](https://sustainableagriculture.net/publications/grassrootsguide/conservation-environment/environmental-quality-incentives-program/))

REGIONAL CONSERVATION PARTNERSHIP PROGRAM
([HTTPS://SUSTAINABLEAGRICULTURE.NET/PUBLICATIONS/GRASSROOTSGUIDE/CONSERVATION-ENVIRONMENT/COOPERATIVE-CONSERVATION-PARTNERSHIP-INITIATIVE/](https://sustainableagriculture.net/publications/grassrootsguide/conservation-environment/cooperative-conservation-partnership-initiative/))

CONSERVATION RESERVE PROGRAM
([HTTPS://SUSTAINABLEAGRICULTURE.NET/PUBLICATIONS/GRASSROOTSGUIDE/CONSERVATION-ENVIRONMENT/CONSERVATION-RESERVE-PROGRAM/](https://sustainableagriculture.net/publications/grassrootsguide/conservation-environment/conservation-reserve-program/))

CRP TRANSITION INCENTIVES PROGRAM
([HTTPS://SUSTAINABLEAGRICULTURE.NET/PUBLICATIONS/GRASSROOTSGUIDE/FARMING-OPPORTUNITIES/CRP-TRANSITION-OPTION/](https://sustainableagriculture.net/publications/grassrootsguide/farming-opportunities/crp-transition-option/))

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ADDITIONAL RESOURCES

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