

Part 528 – Agricultural Conservation Easement Program (ACEP)

Subpart H – ACEP-ALE Eligible Entity Certification

528.70 Overview of the Entity Certification Process

A. NRCS employs a national certification process through which eligible entities may be certified. Certification allows eligible entities administrative flexibility when participating in ACEP-ALE, based on demonstrated experience preserving agricultural land and successful participation in NRCS's Farmland Protection Program (FPP), Farm and Ranch Land Protection Program (FRPP), or ACEP-ALE.

B. An eligible entity may submit a written request for certification and all required request package documents at any time to the State conservationist for the State in which they are seeking certification. There is no specific solicitation period for certification requests.

Multistate Certification.—If an eligible entity seeks certification in multiple States, the written request must be submitted to the State conservationist for the State in which the eligible entity has completed the greatest number of FPP, FRPP, or ACEP-ALE funded easement acquisitions and must list all the States for which it is seeking certification. Eligible entities seeking multistate certification must demonstrate the ability to address State-specific conservation easement requirements in each State listed. The lead State conservationist is responsible for the State conservationist actions described in this subpart and notifies the regional conservationist and other affected State conservationists of the request and review outcomes.

C. The State conservationist reviews the materials submitted in the request package. Based on the review, the State conservationist may recommend the entity for certification to the regional conservationist, may deny the request for certification, or may follow up with the entity as appropriate to obtain any additional information.

D. State conservationist recommendations to approve certification requests are forwarded to the regional conservationist. Final determination on certification approval rests with the regional conservationist. The regional conservationist notifies the eligible entity of the final decision in writing and sends a copy to the appropriate State conservationists. For eligible entities that are certified, the administrative flexibilities associated with such certification may be implemented only under a fully executed ACEP-ALE grant agreement for certified eligible entities or, where authorized, under the certified eligible entity terms of an ACEP-ALE program agreement.

E. If the State conservationist or the regional conservationist determines that an eligible entity does not meet certification requirements, written notification of that decision including identification of the reasons for denying certification is sent to the eligible entity. The eligible entity may be invited to resubmit its application after addressing the criteria identified in the denial. An eligible entity's failure to achieve certification does not affect its ability to participate in ACEP-ALE as a noncertified eligible entity.

528.71 Certification Prerequisites

An entity seeking certification must meet the requirements of an eligible entity as identified in subpart D, section 528.32 of this part, and must provide evidence to the State conservationist documenting that the entity—

Title 440 – Conservation Programs Manual

- (1) Agrees to use easement valuation methodologies identified in 7 CFR Section 1468.24 for ACEP-ALE funded easement acquisitions.
- (2) Completes conservation easement transactions effectively and in a timely fashion. Closing efficiency is evaluated by determining the average time to close all ACEP-ALE, FRPP, or FPP funded conservation easements over the most recent 5-year period. If the eligible entity has acquired less than 5 such easements over the most recent 5-year period, the State conservationist has discretion to review additional years as is necessary to adequately gauge the closing capabilities and efficiency of the eligible entity.
- (3) Maintains the capacity to enforce the provisions of easement deeds and provides documented history of such enforcement. Capacity to enforce is a combination of monitoring conservation easements and addressing violations of conservation easement terms. The entity must demonstrate that in the last 5 years it has—
 - (i) Monitored all ACEP-ALE, FRPP, or FPP funded conservation easements on at least an annual basis, with an onsite visual inspection at least once every 5 years and provided required monitoring reports to NRCS annually.
 - (ii) Timely addressed violations of easement provisions to bring them back into compliance.
- (4) Agrees in its request for certification to the use of the published ACEP-ALE grant agreement for certified eligible entities if certified. This agreement satisfies the requirement that the entity have a plan for administering easements enrolled under this part, as determined by NRCS (see subpart U of this part for sample cover letter from an entity requesting certification).
- (5) Provides evidence that the eligible entity meets the criteria and requirements in one of the following categories:
 - (i) Land Trust Accredited by the Land Trust Accreditation Commission—The entity:
 - Is currently accredited by the Land Trust Accreditation Commission, and such accreditation is in good standing, and
 - Holds, manages, and monitors not fewer than 10 ACEP-ALE, FRPP, or FPP funded conservation easements in good standing.
 - (ii) State Agency—The entity:
 - Is a State Department of Agriculture or other State agency with statutory authority for farm and ranchland protection, and
 - Holds, manages, and monitors not fewer than 10 ACEP-ALE, FRPP, or FPP funded conservation easements in good standing.
 - (iii) General Certification for any Eligible Entity Type—The entity:
 - Holds, manages, and monitors a minimum of 25 agricultural easements (these do not have to be NRCS-funded easements),
 - Of the 25 agricultural easements, the entity holds, manages, and monitors a minimum of 10 ACEP-ALE, FRPP, or FPP funded conservation easements in good standing, and
 - For entities that are nongovernmental organizations, provides evidence of the existence of a sufficient dedicated fund for the purposes of legal defense, monitoring, and enforcement. Dedicated funds are also referred to as “stewardship funds” or “legal defense funds.”
- (6) States must verify the information submitted by the eligible entity for the required 10 ACEP-ALE, FRPP, and FPP funded easements based on data from the easement business tool (e.g., National Easement Staging Tool (NEST)).

528.72 Certification Request Package

Eligible entities must submit a written request for certification along with all required documentation to the appropriate State conservationist. The request package should be submitted to the State conservationist electronically, must address all of the certification prerequisite requirements, and must include the following documents:

- (1) A cover letter wherein the entity—
 - (i) Requests certification under ACEP-ALE.
 - (ii) Outlines the eligible entity’s ability to meet ACEP-ALE certification requirements.
 - (iii) Identifies which certification category they are in (Accredited Land Trust, State Agency, General Certification).
 - (iv) Agrees to use easement valuation methodologies identified in 7 CFR Section 1468.24 for ACEP-ALE funded acquisitions.
 - (v) Agrees to the use of the published ACEP-ALE grant agreement for certified eligible entities if certified, with a copy of the grant agreement attached to the cover letter as a reference.
- (2) If an eligible entity is seeking multistate certification, the eligible entity must include a list of the States in which it is seeking certification.
- (3) A list of the eligible entity’s ten most recently closed ACEP-ALE, FRPP, or FPP funded conservation easement transactions and the final policy of title insurance for each.
- (4) Evidence that the entity has the capacity to enforce the provisions of easement deeds and history of such enforcement, including—
 - (i) The entity must provide a copy of its most recent annual monitoring reports for all ACEP-ALE, FRPP, or FPP funded conservation easement, unless previously submitted to NRCS.
 - (ii) Verification from States based on data from the easement business tool (e.g., NEST) that the entity monitored all of its ACEP-ALE, FRPP, and FPP funded conservation easements in the year preceding the request for certification.
 - (iii) Documentation of resolution for all ACEP-ALE, FRPP, or FPP funded conservation easements that were violated.
- (5) Based on the certification category, the certification request package must also include the following documentation:
 - (i) Land Trust Accredited by the Land Trust Accreditation Commission:
 - Current evidence that the entity has been awarded accreditation (first-time or renewal) by the Land Trust Accreditation Commission (LTAC) and that such accreditation is in good standing at the time certification is requested
 - The entity must disclose if LTAC accreditation was awarded subject to “expectations for improvement,” as NRCS may request additional documentation related to the status of the entity’s compliance with such expectations
 - A statement that the entity will seek renewal of their LTAC accreditation for the duration of any active ACEP-ALE grant agreements, or where authorized ACEP-ALE program agreements, with certified eligible entities
 - A statement that the entity will notify NRCS immediately upon changes to their LTAC accreditation status

Note: Entities with LTAC accreditation that is conditional, currently under probation, or otherwise out of compliance may not seek certification under this category.

(ii) State Agency:

- Current evidence that the agency is a State department of agriculture or other State agency with statutory authority for farm and ranchland protection.
- A copy of the agency's State statutory authority to purchase, hold, and enforce conservation easements for the purpose of farm and ranchland protection.

(iii) General Certification for any Eligible Entity Type:

- A list of 25 agricultural easements that the eligible entity holds, including the location of such easements (State and county), the date each listed easement was acquired and was last monitored, and the results of that monitoring visit (e.g., in compliance, in violation, etc.).

Note: If the entity requests a waiver to this requirement, then the entity must provide evidence of comparable experience working with conservation easements and with the agricultural community. This evidence must include a list of up to 25, but no less than 10, conservation easements or similar interests in real property the entity holds, manages, or enforces, and a written explanation of how this experience ensures the entity can meet ACEP-ALE purposes and requirements. The State conservationist has authority to grant this waiver and must document the basis for their determination.

- A copy of the written acquisition, monitoring, and enforcement policies of the eligible entity.
- Documentation of any enforcement actions the eligible entity has taken within the past 5 years in, such as court documents (such as motions initiating an enforcement action and court's opinions), or a narrative description of specific enforcement actions and violation resolution strategies.
- If no enforcement issues, a narrative description of any proactive actions taken by the eligible entity to educate easement landowners, maintain contact with easement landowners, and prevent easement violations.
- If the entity is a nongovernmental organization, documentation of the existence of a sufficient dedicated fund and the amounts set aside in the dedicated fund for monitoring and enforcement. Documentation must include either the relevant portions of the eligible entity's financial statements or bank records.
 - A dedicated fund is considered committed to these purposes if it is held in a separate account and may not be used for other purposes.
 - The dedicated fund is considered sufficient if it has at least \$50,000 for legal defense and \$3,000 per easement for management and monitoring.
 - Although a sufficiently capitalized risk pool will satisfy the requirement for a dedicated fund, documentation of a dedicated monitoring fund is still required unless the risk pool explicitly covers monitoring of easements.
- Entities applying under this category are encouraged to provide documentation of any professional accreditation or certification the entity has received that relates to the eligible entity's ability to meet ACEP-ALE certification requirements. This documentation is not required but may be considered during review of the request for certification.

528.73 Reviewing the Certification Request Package

A. The State conservationist or designee reviews an entity's certification request package for completeness and compliance with the requirements listed above (see subpart U of this part for sample letter acknowledging receipt of entity certification request package). Additionally, the State assembles and reviews NRCS records to verify the requirements for certification have been met and prepares necessary supporting documents, including—

- (1) The State-completed “Certification Request Review and Determination Checklist” (see subpart U of this part for certification request review and determination checklist).
- (2) Any documentation related to specific certification criteria that the State conservationist determines are salient to whether the eligible entity meets certification criteria.
- (3) The State conservationist waiver to the requirement that the entity hold 25 agricultural easements, if applicable.
- (4) A review of the ten most recently closed ACEP-ALE, FRPP, or FPP funded conservation easement transactions to verify that—
 - (i) The eligible entity's appraisal was approved by the technical appraisal reviewer and supports the payment request (e.g., Standard Form (SF) 270) submitted by the eligible entity.
 - (ii) The conservation easement deed language was approved by NRCS and is the same conservation easement deed language recorded by the eligible entity.
 - (iii) The final policy of title insurance only contains approved exceptions from coverage.
 - (iv) All parcels that include highly erodible croplands have an up-to-date HEL conservation plan developed in accordance with the HEL/WC provisions in 180-NFSAM.
- (5) Confirmation using official agency data from the easement business tool (e.g., NEST) that the average closing time is 24 months or less for the 5 years preceding the request for certification.
 - (i) Time to close an easement is measured from the date NRCS executed the agreement or amendment selecting a parcel for funding to the date of the last signature on the conservation easement deed for that parcel.
 - (ii) Closing efficiency is measured by averaging the closing time of each parcel funded in the 5 years preceding the request.
 - (iii) If less than 5 years of data are available, the closing efficiency will be based upon the number of years of available data.
 - (iv) If the eligible entity has acquired less than 5 easements over the most recent 5-year period, the State conservationist has discretion to review additional years as is necessary to adequately gauge the closing capabilities and efficiency of the eligible entity.
 - (v) The State conservationist may waive the 24-month-or-less average closing time requirement if the entity documents that its closings were delayed for reasons beyond its control. Delay may not be attributed to NRCS review of documents unless any single document review took longer than 90 days from the date the complete document was submitted to NRCS.
- (6) Verification using official agency data from the easement business tool (e.g., NEST) that the entity has conducted annual monitoring and provided NRCS an annual monitoring report for every ACEP-ALE, FRPP, or FPP conservation easement held by the eligible entity.

- (7) Confirmation that the eligible entity provided a brief description of how any ACEP-ALE, FRPP, or FPP easement violations were brought back into compliance. States will ensure the condition reported in the easement business tool (e.g., NEST) is consistent with the report provided by the entity.
- B. If the certification request package is incomplete, States must provide the entity with a list of missing items needed before the review can be completed. Do not forward incomplete packages to the regional conservationist for approval (see subpart U of this part for sample letter notifying entity of incomplete request package).
- C. If the request package is complete but the entity does not meet the certification requirements, the State conservationist notifies the entity in writing with a copy to the regional conservationist. The letter must identify the reasons the entity failed to meet the necessary criteria and may invite the entity to update its certification request (see subpart U of this part for sample letter notifying entity of denial of certification request).
- D. If the State conservationist determines the request is complete, compliant, and recommends the entity for certification, he or she forwards the certification request package, additional supporting documentation, and his or her recommendation to the regional conservationist using the “Certification Review Request and Determination Checklist” (see subpart U of this part for certification request review and determination checklist).
- Note:** If an entity is seeking multistate certification, the regional conservationist may request the State conservationist from each of the listed States provide any information the State conservationist determines is salient to whether the eligible entity meets the certification criteria.
- E. The regional conservationist reviews the certification request package and the supporting documentation from the States and documents their review using the eligible entity “Certification Request Review and Determination Checklist” (see subpart U of this part for certification request review and determination checklist).
- F. If the regional conservationist determines that the eligible entity has met the requirements for certification, then he or she notifies the entity in writing that it is a certified eligible entity in accordance with 7 CFR Section 1468.26 (see subpart U of this part for sample letter notifying entity of approval of certification request). The regional conservationist will send a copy to the Deputy Chief for Programs and the State conservationist in all States in which the certification is effective. The notification must—
- (1) Include the time period during which the certification is effective.
 - (2) Inform the certified eligible entity that its certification does not extend to eligible entities funded through the certified eligible entity.
 - (3) Inform the eligible entity that the administrative flexibilities associated with certification are only authorized for use through the execution of the published ACEP-ALE grant agreement for certified eligible entities, or where authorized through an ACEP-ALE program agreement that contains the specific terms for certified eligible entities.
- G. If the regional conservationist determines that the eligible entity does not yet meet the certification requirements, he or she notifies the entity in writing with copies to the Deputy Chief for Programs and the appropriate State conservationists (see subpart U of this part for sample letter notifying entity of denial of certification request).

528.74 Certification and Administrative Flexibility Provided to Certified Eligible Entities

A certified eligible entity may carry out the actions required by ACEP-ALE with greater independence and without significant involvement from NRCS only through the execution of an ACEP-ALE grant agreement or where authorized, an ACEP-ALE program agreement, subject to the terms applicable to certified eligible entities. An eligible entity that becomes certified may continue to participate in ACEP-ALE through new or existing ACEP-ALE cooperative agreements or where authorized, an ACEP-ALE program agreement, but continue to be subject to the terms of such agreements under which the administrative flexibilities of certification are not authorized. The ACEP-ALE grant agreement, and where authorized, ACEP-ALE program agreement, with certified entities contain the terms that specifically authorize the administrative flexibilities provided to eligibility entities that are certified, including—

- (1) The initial term of an ACEP-ALE grant agreement or where authorized, ACEP-ALE program agreement, with a certified eligible entity may be 5 fiscal years following the fiscal year in which the agreement is originally executed. An eligible entity must request certification and be approved as a certified eligible entity prior to entering into such agreements.
- (2) Certified eligible entities may use their own terms and conditions in the agricultural land easement deeds but must include the standard United States right of enforcement clause as stated in the ACEP-ALE grant agreement or where authorized, ACEP-ALE program agreement. The certified entities deed terms and conditions must address the ACEP-ALE regulatory deed requirements identified in 7 CFR Section 1468.25(d) and in the executed agreement. To address the ACEP-ALE regulatory deed requirements, certified eligible entities may elect to use but are not required to use the “ALE Minimum Deed Terms” addendum published by NRCS.
- (3) Certified eligible entities are required to obtain fair market value appraisals of the agricultural land easement, ensure clear title, and record the agricultural land easement deeds in accordance with the terms of the ACEP-ALE grant agreement or where authorized, ACEP-ALE program agreement, with certified eligible entities.
- (4) For all easements requiring an HEL conservation plan, NRCS must approve the HEL conservation plan component prior to closing. Additionally, any required or agreed-to agricultural land easement plans must be completed as described in subpart G, section 528.63 of this part, based on the Farm Bill under which the ALE-agreement was originally executed and as follows:
 - (i) ALE-agreements entered into under the 2014 Farm Bill (see subpart G, section 528.63B of this part):

All agricultural land easements are subject to an agricultural land easement plan. Certified eligible entities must ensure the agricultural land easement plan and any required component plans are completed and signed by the eligible entity and the landowner prior to closing. NRCS review of the agricultural land easement plan is not required prior to closing unless the certified eligible entity selects NRCS to develop the plan or if an HEL conservation plan is required. NRCS will review the agricultural land easement plan after closing as part of the quality assurance review. For plans not developed by NRCS or that do not include an HEL conservation plan, the eligible entity may request NRCS review and approval of the agricultural land easement plan prior to closing.

- (ii) ALE-agreements entered into under the 2018 Farm Bill (see subpart G, section 528.63C of this part):

If the certified eligible entity has agreed to develop an agricultural land easement plan as a condition of selection and funding or if an HEL conservation plan is required, the agricultural land easement plan must be developed and signed by the eligible entity and the landowner prior to closing. NRCS review of the entity-developed portion of the agricultural land easement plan is not required. NRCS may review the agricultural land easement plan after closing as part of the quality assurance review.

- (5) Certified eligible entities close ACEP-ALE easements without NRCS approving the agricultural land easement deeds, conducting title reviews, reviewing title policy commitments, or approving appraisals prior to closing. NRCS conducts reviews of the easement acquisition transaction after closing through the quality assurance review process.
- (6) In unique circumstances, the certified eligible entity may request NRCS review of a proposed entity-specific deed template prior to execution of the ACEP-ALE grant agreement. NRCS may decline to review these documents prior to closing without impairing NRCS's ability to complete and enforce a quality assurance review after closing.

Note: An eligible entity that becomes certified and has unclosed parcels identified as selected for funding under an existing valid ACEP-ALE cooperative agreement executed in FY 2019 or later, may request to transfer the parcels selected for funding and the associated funds to an ACEP-ALE grant agreement for certified eligible entities, or where authorized an ACEP-ALE program agreement, subject to the terms for certified eligible entities. Following receipt of written notice of certification, entities have 90 days to notify NRCS if they wish to transfer such parcels to an ACEP-ALE grant agreement or where authorized, an ACEP-ALE program agreement, subject to the terms and conditions applicable to certified eligible entities. Eligible entities that do not request a transfer or request a transfer after the 90-day period, continue to be subject to the terms of the existing ALE-agreements for the acquisition of agricultural land easements on parcels identified as selected for funding on such agreements.

528.75 Quality Assurance Review and Decertification

A. Upon certification by NRCS, the certification remains effective for the duration of the Farm Bill under which the certification was approved by NRCS and the administrative flexibilities of certification authorized under the terms of an executed ACEP-ALE grant or program agreement with a certified eligible entity remain valid for the duration of such agreements, unless the entity is decertified.

Note: The certification of an eligible entity ACEP-ALE under the 2014 Farm Bill remains valid for the purposes of entering into new ALE-agreements under the 2018 Farm Bill so long as the eligible entity meets the certification requirements in this part, agrees to the use of the terms of the ACEP-ALE grant agreement for certified entities for 2018 Farm Bill enrollments, and the certified eligible entity continues to pass the annual quality assurance reviews.

B. NRCS will conduct annual quality assurance reviews of the easement acquisition transaction and annual monitoring reports to ensure certified eligible entities continue to meet

the certification requirements. These reviews may occur at any time during the fiscal year. The reviews must determine whether the conservation easement was acquired and is being monitored and enforced in accordance with the requirements set forth by NRCS in its certification of the eligible entity and the ACEP-ALE grant or program agreement entered into with the certified eligible entity.

C. NRCS will review at least 15 percent of the conservation easement transactions submitted by the certified eligible entity for payment each fiscal year. NRCS will review the agricultural land easement deed, legal description or survey, title clearance and final policy of title insurance, appraisal, the baseline documentation report, and as applicable, the agricultural land easement plan, for every parcel in the 15 percent of parcels selected for quality assurance review. To perform a quality assurance review on the—

- (1) Appraisal.—NRCS will complete a technical review according to the technical review standards and specification in 440-CPM, Part 527, Subpart F.
- (2) Final Policy of Title Insurance.—NRCS completes a “Certificate of Use and Consent” based on a review of the final title insurance policy to determine if any unacceptable encumbrances remain on the title. If unacceptable encumbrances remain on the final title policy, NRCS also reviews the certificate of use and consent or substantively similar document that was completed by the eligible entity prior to closing (see subpart G of this part) and any associated title clearance documents. Purchasing easements on land with clear title and sufficient legal access is reflective of the entity implementing policies and procedures to ensure the long-term integrity of the ACEP-ALE funded conservation easement. NRCS also reviews the final title policy to verify it is insuring the correct parties and is for the full amount of the agricultural land easement purchase price.
- (3) Agricultural Land Easement Deed.—NRCS must review the recorded deed to ensure that it satisfies all of the regulatory deed requirements (see subpart G, section 528.60 of this part) and specific ALE-agreement terms applicable based on the Farm Bill under which the agreement was originally executed.
- (4) Boundary Legal Description or Survey.—NRCS will review the legal description or survey that is an exhibit to the deed to ensure it meets the requirements in subpart G, section 528.60B of this part, including, but not limited to, conformance to the description set forth in the title records and proper representation of the ACEP-ALE parcel.
- (5) Agricultural Land Easement Plan.—For any plans not completed or reviewed by NRCS prior to closing, NRCS must review the agricultural land easement plan and any component plans to ensure that the plans meet the requirements applicable based on the Farm Bill under which the ALE-agreement was originally executed (see subpart G, section 528.63 of this part).
- (6) Baseline Documentation Report.—NRCS must review the baseline documentation report, incorporated in the agricultural land easement deed by reference, to ensure the report meets the requirements identified in the ACEP-ALE grant agreement, or where authorized, ACEP-ALE program agreement, subject to the terms applicable to certified eligible entities.

D. NRCS must also conduct an annual review of the annual monitoring reports provided by the certified eligible entity. The entity has primary responsibility for monitoring and enforcement of the ACEP-ALE easement. NRCS must ensure that an annual monitoring report has been submitted annually for every NRCS-funded conservation easement held by the certified eligible entity. Additionally, each year, NRCS must conduct a detailed review of

at least 15 percent of the annual monitoring reports to ensure the reporting requirements have been met.

Note: NRCS must continue to conduct monitoring in accordance with 440-CPM, Part 527, Subpart P, on NRCS stewardship lands where the United States is identified in the easement deed as a grantee or a co-grantee (includes FRPP easements enrolled in 2006–2008), even if those easements are held by an entity that is certified under ACEP-ALE.

E. If NRCS finds that the certified eligible entity did not complete an agricultural land easement deed, title review and insurance, appraisal, or plan as required, or the annual monitoring as required, NRCS must notify the certified entity in writing. The letter from NRCS must identify the deficiencies, identify the required corrective actions to be taken by the entity, and provide a specified period of time for the entity to correct the deficiencies. If the deficiencies are not corrected to NRCS's satisfaction, NRCS may pursue remedies including but not limited to the return of cost-share funds, decertification of the entity, or termination of the grant agreement. If a deficiency is discovered, NRCS may also conduct a quality assurance review on any or all other parcels funded in the grant agreement.

F. NRCS will also assess the certified entities certification status such that if during the quality assurance review or at any other time, NRCS finds that the certified eligible entity no longer meets the criteria in 7 CFR Section 1468.26 and this subpart, NRCS will allow the certified eligible entity a specified period of time, at a minimum 180 days, to take actions necessary to correct the identified deficiencies to continue to meet the criteria as a certified entity.

G. If the certified eligible entity fails to correct the identified deficiencies, NRCS sends a notice of decertification to the eligible entity as provided in this section.

- (1) If the deficiency has not been corrected at the end of the specified time period, NRCS must send written notice by certified mail, return receipt requested, of proposed decertification of the entity and ineligibility for future ACEP-ALE funding. This notice must contain a list of outstanding actions that have not been sufficiently corrected, the status of funds in the grant agreement, and the impact on the eligibility of the entity to apply for or request ACEP-ALE funds.
- (2) The entity may contest the notice of decertification in writing to the Chief of NRCS within 20 calendar days of receipt of the notice of proposed decertification.
- (3) The Chief, or designee, makes a final determination of decertification and sends formal notice of decertification to the entity with a copy to the appropriate regional conservationist, State conservationists, and the Deputy Chief for Programs. EPD enters decertifications into the easement business tool (e.g., NEST or successor business tool).
- (4) NRCS may also determine if any further administrative action is necessary, including whether suspension and debarment action under 2 CFR Parts 180 and 417 should be initiated.

H. Grounds for decertification include, but are not limited to, any of the following:

- (1) Failure to meet ACEP-ALE statutory and regulatory program requirements
- (2) Breach or violation of the terms of an ACEP-ALE grant or program agreement
- (3) Engaging in a scheme or device to defeat the purposes of ACEP-ALE, including coercion, fraud, misrepresentation, or providing incorrect or misleading information
- (4) Committing any other action of a serious or compelling nature as determined by NRCS that demonstrates the certified eligible entity's inability to meet ACEP-ALE requirements

Title 440 – Conservation Programs Manual

- (5) Failure to maintain accreditation status in good standing with accrediting body if this was the criteria used to become a certified entity
 - (6) Failure to take corrective action to address deficiencies upon notice from NRCS
- I. The period of decertification is 3 years. During these 3 years, the entity is not eligible for any of the benefits of certification.
- J. Decertification results in termination of the ACEP-ALE grant agreement or ACEP-ALE program agreement, with certified eligible entities, and ineligibility of the entity to receive funding for any transactions remaining under the such agreement at the time of termination. NRCS may require the entity to return any financial assistance provided by NRCS for easements that fail a quality assurance review and are not remedied to NRCS's satisfaction. NRCS may determine that the decertified entity no longer qualifies as an eligible entity during the period of decertification or suspension and debarment of the decertified entity.
- K. The entity may be recertified upon application to NRCS after the decertification period has expired and when the entity has met the requirements as outlined under 7 CFR Section 1468.26 and this part.
- L. EPD will maintain a national list of certified and decertified entities that each State office must check prior to entering into an ALE-agreement.