

## Part 528 – Agricultural Conservation Easement Program

### Subpart T – ACEP Definitions and Acronyms

#### 528.190 Definitions

Additional definitions can be found in 440-CPM, Part 502, “Terms and Abbreviations Common to All Programs.” In the event of a discrepancy, the definition contained in this part, prevails for ACEP purposes.

- (1) “30-year contract” means an ACEP-WRE contract that is for a duration of 30 years and is limited to acreage owned by Indian Tribes.
- (2) “Access” means legal and physical ingress and egress to the entire easement area over adjacent or contiguous lands for the exercise of any of the rights or interests under the easement for the duration of its term for the purposes of the program. Access for easement enrollments must be described in the easement deed.
- (3) “Acreage owned by Indian Tribes” means lands held in private ownership by an Indian Tribe or individual Tribal member and lands held in trust by a native corporation, a Tribe, or the Bureau of Indian Affairs. This land may be also be referred to as “Tribal land.”
- (4) “Active agricultural production” means that on lands that meet the definition of being in agricultural use, agricultural or forest-related products or livestock are being produced or have been produced within 1 year of the date of application by an eligible entity for funding under ACEP-ALE. Land may also be considered in active agricultural production if it is current or former Conservation Reserve Program (CRP) land that is planted, considered planted, or in conserving use as determined by NRCS.
- (5) “Agreement” means the document that specifies the rights, requirements, and responsibilities of NRCS and any persons, legal entities, or eligible entities participating in the program or any document that authorizes the transfer of assistance between NRCS and a third party for provision of authorized goods and services associated with program implementation. Agreements may include but are not limited to an agreement to purchase, an ALE-agreement, a buy-protect-sell arrangement, a wetland reserve easement restoration agreement, a cooperative agreement, a contribution agreement, a grant agreement, a partnership agreement, or an interagency agreement.
- (6) “Agreement to purchase” means the legal document that is the equivalent of a real estate purchase and sale contract. The landowner signs the agreement to purchase, which is the authorization for NRCS to proceed with the ACEP-WRE acquisition process.
- (7) “Agricultural commodity” means any agricultural commodity planted and produced in a State by annual tilling of the soil, including tilling by one-trip planters or sugarcane planted and produced in a State.
- (8) “Agricultural land easement (ACEP-ALE)” means an easement or other interest in eligible land that is conveyed under ACEP-ALE for the purposes of protecting natural resources and the agricultural nature of the land, and of promoting agricultural viability for future generations, and permits the landowner the right to continue agricultural production and related uses subject as applicable, to an agricultural land easement plan.
- (9) “Agricultural land easement plan (ALEP)” means:
  - (i) For Enrollments Under the 2014 Farm Bill.—The document developed by NRCS or provided by the eligible entity and approved by NRCS, in consultation with the eligible entity and landowner, that describes the activities which promote the long-term viability of the land to meet the ACEP-ALE purposes for which the easement was acquired. The agricultural land easement plan includes a description of the farm or ranch management

system, conservation practices that address applicable resource concerns for which the easement was enrolled, and any required component plans, such as a grasslands management plan, forest management plan, or highly erodible land (HEL) conservation plan as defined in this part. Where appropriate, the agricultural land easement plan will include conversion of highly erodible cropland to less-intensive uses.

- (ii) For Enrollments Under the 2018 Farm Bill.—A document developed by the eligible entity that describes the activities which promote the long-term viability of the land to meet the purposes for which the easement was acquired. An agricultural land easement plan includes a description of the farm or ranch management system and the natural resource concerns on the land, describes the conservation measures and practices that may be implemented to address applicable resource concerns for which the easement was enrolled, and incorporates by reference any component plans such as a grasslands management plan, forest management plan, or HEL conservation plan as defined in this part.
- (10) “Agricultural uses” means those activities defined by a State’s farm or ranch land protection program, or, where no program exists, by the State agricultural use tax assessment program. However, if NRCS determines that a State definition of agricultural use is so broad that an included use would constitute a violation of Federal law, limit future agricultural viability, degrade soils or the agricultural nature of the land or the related natural resources, NRCS reserves the right to impose greater deed restrictions on the property to be subject to an agricultural land easement. These deed restrictions would narrow the State definition of agricultural use in order to meet Federal law, or to protect soils, the agricultural nature of the land, or related natural resources.
  - (11) “ALE-agreement” means the document that outlines the rights, requirements, roles, and responsibilities of NRCS and eligible entities participating in the program under ACEP-ALE, including cost-share payment provisions.
  - (12) “At-risk species” means any plant or animal species listed as threatened or endangered; proposed or candidate for listing under the Endangered Species Act; a species listed as threatened or endangered under State law or Tribal law on Tribal land; State or Tribal land species of conservation concern; or other plant or animal species or community, as determined by the State conservationist, with advice from the State technical committee or Tribal conservation advisory council, that has undergone, or is likely to undergo, population decline and may become imperiled without direct intervention.
  - (13) “Bargain sale” means a real estate transaction in which the landowner donates part of the value of the conservation easement by accepting a purchase price less than appraised fair market value.
  - (14) “Beginning farmer or rancher” means a person, Indian Tribe, Tribal corporation, or legal entity who—
    - (i) Has not operated a farm or ranch or nonindustrial private forest land (NIPF), or who has operated a farm or ranch or NIPF for not more than 10-consecutive years. This requirement applies to all members of an entity who will materially and substantially participate in the operation of the farm or ranch or NIPF.
    - (ii) In the case of an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch consistent with the practices in the county or State where the farm is located.
    - (iii) In the case of a legal entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management or labor and management necessary for day-to-day activities, such that if each of the

members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

- (15) “Building envelope” applies to ACEP-ALE only and means an area within which the structures on the farm or ranch are located and within which building may occur on an ACEP-ALE easement. Building envelope limitations and requirements are identified in the agricultural land easement deed. On parcels upon which additional structures will be built after the easement is acquired, the building envelope must be large enough for that construction, the movement of vehicles and farm equipment on impervious surfaces around the structures, and the management of runoff without erosion or flooding. Large farms and ranches may need more than one building envelope to accommodate livestock sheds, equipment sheds, or hay storage structures far from the headquarters building envelope. All impervious surfaces within all of the building envelopes must be within the impervious surface limitation for the ACEP-ALE parcel. Building envelopes are also known as farmstead complexes or farmstead areas.
- (16) “Buy-Protect-Sell Transaction” means a legal arrangement between an eligible entity and NRCS relating to land owned or being purchased by an eligible entity on a transitional basis during which an agricultural land easement will be secured on eligible private or Tribal land, and ownership of the land transferred to a qualified farmer or rancher following conditions specified in this part.
- (17) “Certified entity” means an eligible entity that NRCS has determined to meet the certification requirements in 7 CFR Section 1468.26 for the purposes of ACEP-ALE.
- (18) “Chief” means the Chief of NRCS or the person delegated the authority to act for the Chief.
- (19) “Commenced conversion wetland” means a wetland or converted wetland for which the Farm Service Agency (FSA) has determined that the wetland manipulation was contracted for, started, or for which financial obligation was incurred before December 23, 1985.
- (20) “Commodity Credit Corporation (CCC)” is a wholly owned Federal Government corporation within the Department of Agriculture.
- (21) “Compatible use” means a use or activity conducted on a wetland reserve easement that NRCS determines, in its sole discretion, is consistent with the long-term protection and enhancement of the wetland and other natural values of the easement area when performed according to amount, method, timing, location, frequency, intensity, and duration limitations prescribed by NRCS.
- (22) “Conservation district” means any district or unit of State or local government formed under State or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a “conservation district,” “soil conservation district,” “soil and water conservation district,” “resource conservation district,” “natural resource district,” “land conservation committee,” or a similar name.
- (23) “(HEL) Conservation plan” is for ACEP-ALE the document that—
  - (i) Applies to highly erodible cropland.
  - (ii) Describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules and, where appropriate, may include conversion of highly erodible cropland to less-intensive uses.
  - (iii) Is developed in accordance with 7 CFR Part 12.
- (24) “Conservation practice” means a specified treatment, such as a vegetative, structural, or land management practice, that is planned and applied according to NRCS standards and specifications.
- (25) “Conservation Reserve Program (CRP)” means the program administered by the CCC as required by 16 U.S.C. Sections 3831–3836.

- (26) “Converted wetland (CW or CW+year)” means a wetland that has been drained, dredged, filled, leveled, or otherwise manipulated (including the removal of woody vegetation or any activity that results in impairing or reducing the flow, circulation, or reach of water) for the purpose of, or to have the effect of, making possible the production of an agricultural commodity if such production would not have been possible but for such action, and, before such action, such land was wetland, farmed wetland, or farmed-wetland pasture and was neither highly erodible land nor highly erodible cropland.
- (27) “Cost-share payment” means the payment made by NRCS to an eligible entity for the purchase of an ACEP-ALE easement.
- (28) “Dedicated fund” means an account held by a certified nongovernmental organization which is sufficiently capitalized for the purpose of covering expenses associated with the management, monitoring, and enforcement of agricultural land easements and where such account cannot be used for other purposes.
- (29) “Easement administration action” means an easement subordination, easement modification, easement exchange, or easement termination as defined in this part.
- (30) “Easement area” means the portion of a parcel that is encumbered by an ACEP easement.
- (31) “Easement exchange” means a real estate transaction where NRCS, on behalf of the United States and in its sole discretion, relinquishes all or a portion of its rights or interests in an easement which are replaced by similar rights or interests in an easement that have equivalent or greater conservation value, acreage, and economic value to the United States on land that is not adjacent to the original easement area. NRCS is not required to exchange any of its rights or interests in an easement, and easement exchanges are discretionary, voluntary real estate transactions between the United States, the landowner, and other parties with an interest in the easement that are subject to the requirements of this part.
- (32) “Easement modification” means a real estate transaction where NRCS, on behalf of the United States and in its sole discretion, agrees to adjust the boundaries or terms of an easement that will result in equivalent or greater conservation value, acreage, and economic value to the United States, and the modification only involves lands within or physically adjacent to the original easement area. NRCS is not required to modify any of its rights or interests in an easement, and easement modifications are discretionary, voluntary real estate transactions between the United States, the landowner, and other parties with an interest in the easement that are subject to the requirements of this part.
- (33) “Easement payment” means the consideration paid to a participant or their assignee for an easement conveyed to the United States under the ACEP-WRE or the consideration paid to an Indian Tribe or Tribal members for entering into 30-year contracts under ACEP-WRE.
- (34) “Easement restoration agreement” means the agreement or contract NRCS enters into with the landowner or a third party to implement the wetland reserve plan of operations (WRPO) on a wetland reserve easement or 30-year contract.
- (35) “Easement subordination” means a real estate transaction where NRCS, on behalf of the United States and in its sole discretion, agrees to subordinate all or a portion of its rights or interests in an easement. NRCS is not required to subordinate any of its rights or interests in an easement, and easement subordinations are discretionary, voluntary, real estate transactions between the United States, landowner, and other parties with an interest in the easement that are subject to the requirements of this part. As determined by NRCS, the subordination must be in the public interest or further the practical administration of the program, minimally affect the easement acreage, and increase or have limited negative effects on the conservation values of the easement area.
- (36) “Easement termination” means a real estate transaction where NRCS, on behalf of the United States and in its sole discretion, agrees to terminate all or a portion of its rights or interests in an easement. The termination must address a compelling public need for which there is no practicable alternative even with avoidance and minimization of adverse impacts

- and must facilitate the practical administration of the program. The United States must be provided full compensation for such termination and any costs and damages related to the termination. NRCS is not required to terminate any of its rights or interests in an easement, and easement terminations are discretionary, voluntary, real estate transactions between the United States, landowner, and other parties that are subject to the requirements of this part. Unless and until the parties enter into a binding termination agreement, any party may withdraw its approval of a termination proposal at any time during the termination process.
- (37) “Eligible activity” means an action other than a conservation practice that has the effect of alleviating problems or improving the condition of the resources, such as ensuring proper management or maintenance of the wetland functions and values restored, protected, or enhanced through an ACEP-WRE easement or 30-year contract as identified in the WRPO.
- (38) “Eligible entity” means an Indian Tribe, State Government, local government, or a nongovernmental organization that has a farmland or grassland protection program that purchases agricultural land easements for the purpose of protecting:
- (i) The agriculture use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land that negatively affect the agricultural uses and conservation values; or
  - (ii) Grazing uses and related conservation values by restoring or conserving eligible land.
- (39) “Eligible land” means private land or acreage owned by Indian Tribes (Tribal land) that NRCS has determined to meet the land eligibility requirements for ACEP-ALE (subpart D, section 528.33 of this part) or ACEP-WRE (subpart K, section 528.105 of this part).
- (40) “Enforcement” means any actions to address violations of the easement or contract, including encroachments or trespasses. Guidance regarding enforcement and violations procedures and requirements applicable to ACEP-WRE is in 440-CPM, Part 527, Subpart S and further specified in this subpart P of this part.
- (41) “Enrollment option” means the manner in which land may be enrolled in the ACEP. Under ACEP-WRE, the options are permanent or 30-year easement, easement of maximum duration allowed under State law, or 30-year contract for acreage owned by Indian Tribes. Under ACEP-ALE, the options are permanent easements or maximum duration allowed under State law.
- (42) “Environmental benefit” means, for ACEP-WRE, the promotion of habitat for migratory birds and wetland-dependent wildlife, habitat for threatened and endangered or other at-risk species, protection or restoration of native vegetative communities, increased resilience of ecosystems during climatic change, habitat and species diversity and abundance, water quality protection or improvement, attenuation of floodwater flows, and water quantity benefits through increased water storage.
- (43) “Environmental threat” means, under ACEP-WRE, onsite or offsite conditions or activities that may have an adverse effect to the wetland restoration process, or interfere with the ability to achieve maximization of wetland functions and values.
- (44) “Fair market value (FMV)” means, for an agricultural land easement, the value of an agricultural land easement as determined using the Uniform Standards of Professional Appraisal Practice, an areawide market analysis or survey, or another industry-approved method approved by the Chief, as established in subpart F, section 528.53 of this part, or, for a wetland reserve easement, the value of the land as determined using the Uniform Standards of Professional Appraisal Practices or areawide market analysis or survey, as established in subpart M, section 528.122 of this part.
- (45) “Farm and ranch land of local importance” means farm or ranch land used to produce food, feed, fiber, forage, biofuels, and oilseed crops that are locally important but not identified as having national or statewide importance. Criteria for defining and delineating this land are to be determined by the appropriate local agency or agencies. Farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

- (46) “Farm and ranch land of statewide importance” means, in addition to prime and unique farmland, land that is of statewide importance for the production of food, feed, fiber, forage, biofuels, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law in accordance with 7 CFR Part 657.
- (47) “Farm or ranch succession plan” means a general plan to address the continuation of some type of agricultural business on the enrolled land. The farm or ranch succession plan may include specific intrafamily succession agreements or business asset transfer strategies to create opportunities for new or beginning farmers or ranchers, veteran farmers or ranchers, or other historically underserved landowners.
- (48) “Farm Service Agency (FSA)” is an agency of the U.S. Department of Agriculture.
- (49) “Field Office Technical Guide (FOTG)” means the official local NRCS source of resource information and interpretations of guidelines, criteria, and requirements for planning and applying conservation practices and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant, animal, and energy resources applicable to the local area for which it is prepared.
- (50) “Fish and Wildlife Service (FWS)” is an agency of the U.S. Department of the Interior.
- (51) “Forest land” means a land cover or use category that is at least 10-percent stocked by single-stemmed woody species of any size that will be at least 13-feet tall at maturity. Also included is land-bearing evidence of natural regeneration of tree cover (cutover forest or abandoned farmland) that is not currently developed for nonforest use. Ten-percent stocked, when viewed from a vertical direction, equates to an aerial canopy cover of leaves and branches of 25 percent or greater.
- (52) “Forest land of statewide importance” means forest land that NRCS, in consultation with the State technical committee, identifies as having ecological or economic significance within the State and may include forested areas or regions of the State that have been identified through statewide assessments and strategies conducted pursuant to State or Federal law.
- (53) “Forest management plan” means a site-specific plan that describes management practices that conserve, protect, and enhance the viability of the forest land. 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) or other plan approved by the State forester.
- (54) “Future viability” means the legal, physical, and financial conditions under which the land itself will remain capable and available for continued sustained productive agricultural or grassland uses while protecting related conservation values such as management of the agricultural land easement area consistent with an agricultural land easement plan.
- (55) “Grassland” means land on which the vegetation is dominated by grasses, grass-like plants, shrubs, or forbs, including shrubland, land that contains forbs, pastureland, and rangeland, and improved pastureland and rangeland.
- (56) “Grassland of special environmental significance (GSS)” means grasslands that contain little or no noxious or invasive species, as designated or defined by State or Federal law; are subject to the threat of conversion to nongrassland uses or fragmentation; and the land—
- (i) Is rangeland, pastureland, shrubland, or wet meadows on which the vegetation is dominated by native grasses, grass-like plants, shrubs, or forbs, or
  - (ii) Is improved, naturalized pastureland, rangeland, or wet meadows;
  - (iii) Provides, or could provide, habitat for threatened or endangered species or at-risk species,

- (iv) Protects sensitive or declining native prairie or grassland types or grasslands buffering wetlands, or
  - (v) Provides protection of highly sensitive natural resources as identified by the State conservationist, in consultation with the State technical committee.
- (57) “Grasslands management plan” means the site-specific plan that describes the grassland resources, the management system and practices that conserve, protect, or enhance the viability of the grassland, and as applicable, the habitat, species, or sensitive natural resources. A grasslands management plan may be a component of either an agricultural land easement plan or wetland reserve plan of operations.

For ACEP-ALE enrollments under the 2014 Farm Bill: The grasslands management plan will include a description of the grassland management system consistent with NRCS practices contained in the FOTG, including the prescribed grazing standard for easements that will be managed using grazing; the management of the grassland for grassland-dependent birds, animals, or other resource concerns for which the easement was enrolled; the permissible and prohibited activities, including the use of haying as a management tool; and any associated restoration plan or conservation plan.

- (58) “Grazing management plan” means for ACEP-WRE as site-specific plan developed as a component of the WRPO that proves for grazing of the grass and grass-like cover while accomplishing the wetland functions and values of the easement as identified by NRCS.
- (59) “Historical and archaeological resources” mean resources that meet any of the following criteria:
- (i) Listed in the National Register of Historic Places (established under the National Historic Preservation Act (NHPA), 54 U.S.C. Section 300101 et seq.).
  - (ii) Formally determined eligible for listing in the National Register of Historic Places (by the State historic preservation officer (SHPO) or Tribal historic preservation officer (THPO) and the Keeper of the National Register in accordance with section 106 of the NHPA.
  - (iii) Formally listed in the State or Tribal register of historic places of the SHPO (designated under section 101(b)(1)(B) of the NHPA) or the THPO (designated under section 101(d)(1)(C) of the NHPA).
  - (iv) Included in the SHPO or THPO inventory with written justification as to why it meets National Register of Historic Places criteria.
- (60) “Historically underserved landowner” means a beginning, limited-resource, or socially disadvantaged farmer or rancher, or veteran farmer or rancher.
- (61) “Hydric soil” means is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (Field Indicators of Hydric Soils in the United States, NTCHS, 1994).
- (62) “Imminent harm” means easement violations or threatened violations that, as determined by NRCS, would likely cause immediate and significant degradation to the conservation values for which the easement was acquired.
- (63) “Impervious surface” means surfaces that are covered by asphalt, concrete, roofs, or any other surface that does not allow water to percolate into the soil. Under ACEP-ALE roads and parking lots with soil or gravel surfaces and temporary greenhouses that cover the soil surface for less than 6 months are not considered impervious surfaces. Conservation practices in the NRCS FOTG and an agricultural land easement plan for the subject farm or ranch are not considered in the calculation of impervious surfaces for ACEP-ALE.
- (64) “Indian Tribe” means any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established as required by the Alaska Native Claims Settlement Act (43 U.S.C. Section

- 1601 et seq.), that is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (65) “Invasive species” means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.
- (66) “Joint operation” means a general partnership, joint venture, or other similar business organization in which the members are jointly and severally liable for the obligations of the organization.
- (67) “Land evaluation and site assessment (LESA) system” means the land evaluation system approved by NRCS and used, when applicable, to rank land for farm and ranch land protection purposes based on soil potential for agriculture, as well as social and economic factors such as location, access to markets, and adjacent land use. For additional information see the Farmland Protection Policy Act regulation at 7 CFR Part 658.
- (68) “Landowner” means a person, legal entity, or Indian Tribe having legal ownership of eligible land and those who may be buying eligible land under a purchase agreement. The term landowner may include all forms of collective ownership including joint tenants and tenants-in-common, and includes heirs, successors, assigns, and anyone claiming under them. The term landowner also includes both the owners of a life estate interest in land and the owners of a remainder interest in land that is subject to a life estate, and includes both the purchasers and sellers under an active contract for deed, contract for sale, land contract or other similar “lease to own” land purchase financing arrangement. State governments and local governments are not eligible as landowners. For ACEP-ALE, nongovernmental organizations and Indian tribes that qualify as eligible entities are not eligible as landowners unless otherwise determined by the Chief following an approved buy-protect-sell transaction.
- (69) “Lands substantially altered by flooding” means agricultural lands where flooding has created wetland hydrologic conditions which, with a high degree of certainty, will develop and retain wetland soil, hydrology, and vegetation characteristics over time.
- (70) “Land that furthers a State or local policy consistent with the purposes of the program” means land that meets the other criteria of eligible land and meets the policy of a State or local government as certified by the State or local government.
- (71) “Legal entity” means an entity created under Federal or State law that meets either of the following criteria:
- (i) Owns land or an agricultural commodity, product, or livestock
  - (ii) Produces an agricultural commodity, product, or livestock
- (72) “Limited-resource farmer or rancher” means either of the following:
- (i) A person who meets both of the following criteria:
    - With direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 fiscal years (adjusted for inflation using Prices Paid by Farmer Index as compiled by National Agricultural Statistical Service)
    - Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using the U.S. Department of Commerce Data)
  - (ii) A legal entity or joint operation if all individual members independently qualify under paragraph (i) above.
- (73) “Maintenance” means work performed to keep the wetland reserve easement lands functioning for program purposes for the duration of the enrollment period. Maintenance includes actions and work performed to manage, prevent deterioration, repair damage, or replace conservation practices or eligible activities on a wetland reserve easement, as approved or conducted by NRCS.
- (74) “Management” in the context of ACEP-WRE enrollments, means the eligible activities or measures necessary to properly manage wetland functions and values (especially wildlife



- habitat) for which the land was enrolled in ACEP-WRE, for the duration of the enrollment. Management needs and requirements may change over time depending on the wetland functions and values and habitat on the enrolled area.
- (75) “Monitoring” means the periodic review and assessment of how land enrolled in ACEP is meeting program purposes and objectives and the landowner’s program compliance, and for ACEP-WRE includes an assessment of the ecological functioning of the site. Guidance regarding monitoring procedures and requirements are addressed in 440-CPM, Part 527, Subpart P and further specified in subpart P of this part.
- (76) “Monitoring report” means a report, the contents of which are formulated and prepared by the easement holder, or their delegate, that accurately documents on an annual basis whether the land subject to easement is in compliance with the terms and conditions of the easement.
- (77) “Natural Resources Conservation Service (NRCS)” means an agency of the U.S. Department of Agriculture, including when NRCS carries out program implementation using the funds, facilities, or authorities of the CCC.
- (78) “Nongovernmental organization (NGO)” means any organization that for purposes of qualifying as an eligible entity under ACEP-ALE meets all of the following criteria:
- (i) Is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986.
  - (ii) Is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under 501(a) of that code.
  - (iii) Is described in either of the following:
    - Section 509(a)(1) and (2) of the Internal Revenue Code of 1986.
    - Section 509(a)(3) of the Internal Revenue Code of 1986 and is controlled by an organization described in section 509(a)(2) of that code.
- (79) “Nonindustrial private forest land (NIPF)” means rural land, as determined by the NRCS, that has existing tree cover or is suitable for growing trees; and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private legal entity that has definitive decision-making authority over the land.
- (80) “Nonseasonal” refers to a nonpermanent installed structure or cover that will be removed from the soil surface periodically during the growing season.
- (81) “Noxious weed” means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment. Noxious weeds will generally possess one or more of the characteristics of being aggressive and difficult to manage, parasitic, a carrier or host of deleterious insects or disease, and being non-native, new to, or not common to the United States or parts thereof.
- (82) “Other interests in land” include any right in real property other than easements that are recognized by State law that the Chief determines can be purchased by an eligible entity to further the agricultural use of the land and other ACEP-ALE purposes.
- (83) “Other productive soils” means farm and ranch land soils, in addition to prime farmland soils, that include unique farmland or farm and ranch land of statewide and local importance.
- (84) “Parcel” means the defined area of land and may be a portion or all of the area of land that is owned by the landowner.
- (85) “Participant” means a person, legal entity, Indian Tribe, native corporation, or eligible entity who has been accepted into the program and who is receiving payment or who is responsible for implementing the terms and conditions of an agreement to purchase, an agreement to enter 30-year contract, or an ALE-agreement.
- (86) “Pending offer” means a written bid, contract, or option between a landowner and an eligible entity for the acquisition of an agricultural conservation easement in perpetuity, or for

- the maximum duration allowed under State law, before the legal title to these rights has been conveyed for the purposes of protecting:
- (i) The agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land; or
  - (ii) Grazing uses and related conservation values by restoring or conserving eligible land.
- (87) “Permanent easement” means an easement that lasts in perpetuity.
  - (88) “Person” means a natural person.
  - (89) “Prairie Pothole Region” means the counties designated as part of the Prairie Pothole National Priority Area for the CRP as of June 18, 2008.
  - (90) “Prime farmland” means land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor without intolerable soil erosion, as determined by NRCS.
  - (91) “Private land” means land that is not owned by a governmental entity and includes acreage owned by Indian Tribes, as defined in this part.
  - (92) “Projects of special significance” means ACEP-ALE projects identified by the Chief using the criteria identified in subpart E, section 528.43D of this part.
  - (93) “Purchase Price” means the appraised fair market value of the agricultural land easement minus the landowner donation.
  - (94) Responsible Federal Official (RFO).—The agency official who is authorized to make specific decisions. The NRCS Chief is the RFO for compliance with the National Environmental Policy Act (NEPA) regarding proposed legislation, programs, legislative reports, regulations, and program EISs. NRCS State conservationists (STCs) are the RFOs for compliance with the provisions of NEPA in other NRCS-assisted actions. (NRCS eDirectives, 190-GM, Part 410, Subpart A, Section 410.4.)
  - (95) “Right of enforcement” means the right of the United States to enforce the easement entered into under this part in those instances in which the grantee of the easement does not fully protect the interests provided to the grantee under the easement.
  - (96) “Rights of the United States” means the interests in a conservation easement held by the United States, which the United States may exercise under specific circumstances in order to take sole ownership of the conservation easement and enforce its terms. This applies only to Farm and Ranch Lands Protection Program (FRPP) conservation easement deeds pursuant to cooperative agreements entered into in 2006 through 2008.
  - (97) “Riparian areas” means areas of land that occur along streams, channels, rivers, and other water bodies. These areas are normally distinctly different from the surrounding lands because of unique soil and vegetation characteristics, may be identified by distinctive vegetative communities that are reflective of soil conditions normally wetter than adjacent soils, and generally provide a corridor for the movement of wildlife.
  - (98) “Secretary” means the Secretary of the U.S. Department of Agriculture.
  - (99) “Socially disadvantaged farmer or rancher” means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members’ individual qualities. For a legal entity, at least 50-percent ownership in the legal entity must be held by socially disadvantaged individuals.
  - (100) “State conservationist” means the NRCS employee authorized to direct and supervise NRCS activities in a State, and includes the directors of the Caribbean Area (Puerto Rico and the Virgin Islands), or the Pacific Islands Area (Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).
  - (101) “State technical committee (STC)” means a committee established under 16 U.S.C. Section 3861 and 7 CFR Part 610, Subpart C.
  - (102) “Unique farmland” means land other than prime farmland that is used for the production of specific high-value food and fiber crops as determined by NRCS. It has the special

- combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. Additional information on the definition of prime, unique, or other productive soil can be found in 7 CFR Parts 657 and 658.
- (103) “Veteran farmer or rancher” means a producer who meets the definition in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. Section 2279(a)).
- (104) “Wetland” means land that meets all of the following criteria:
- (i) Has a predominance of hydric soils.
  - (ii) Is inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
  - (iii) Supports a prevalence of such vegetation under normal circumstances.
- (105) “Wetland functions and values” means the hydrological and biological characteristics of wetlands and the socioeconomic value placed upon these characteristics, including—
- (i) Habitat for migratory birds and other wildlife, in particular at-risk species.
  - (ii) Protection and improvement of water quality.
  - (iii) Attenuation of water flows due to flood.
  - (iv) The recharge of ground water.
  - (v) Protection and enhancement of open space and aesthetic quality.
  - (vi) Protection of flora and fauna which contributes to the Nation’s natural heritage.
  - (vii) Carbon sequestration.
  - (viii) Contribution to educational and scientific scholarship.
- (106) “Wetland reserve easement” (ACEP-WRE) means a reserved interest easement, which is an interest in land defined and delineated in a deed whereby the landowner conveys all rights, title, and interests in a property to the United States, but the landowner retains those rights, title, and interests in the property which are specifically reserved to the landowner in the easement deed.
- (107) “Wetland reserve plan of operations (WRPO)” means the document that is developed or approved by NRCS that identifies how the wetland functions and values and associated habitats on the easement will be restored, improved, protected, managed, maintained, and monitored to achieve the purposes of the wetland reserve easement enrollment.
- (108) “Wetland restoration” means the rehabilitation of degraded or lost wetland and associated habitats pursuant to published State-specific criteria and guidelines developed in coordination with the State technical committee in a manner such that:
- (i) The original, native vegetative community and hydrology are, to the extent practical, reestablished; or
  - (ii) A hydrologic regime and native vegetative community different from what likely existed prior to degradation of the site is established that will:
    - Substantially replace the original habitat functions and values while providing significant support or benefit for migratory waterfowl or other wetland-dependent wildlife; or
    - Address local resource concerns or needs for the restoration of wetland functions and values for wetland-dependent wildlife as identified in an approved State wildlife action plan or NRCS national initiative.
- (109) “Wildlife” means nondomesticated birds, fishes, reptiles, amphibians, invertebrates, and mammals.

## 528.191 Acronyms

Additional acronyms and abbreviations may be found in 440-CPM, [Part 502, “Terms and Abbreviations Common to All Programs.”](#) In the event of a discrepancy, the abbreviation contained in this 440-CPM, Part 528, will prevail for ACEP purposes.

- (1) AAI—all appropriate inquiries
- (2) ACEP—Agricultural Conservation Easement Program
- (3) ACEP-ALE—Agricultural Conservation Easement Program – Agricultural Land Easement
- (4) ACEP-WRE—Agricultural Conservation Easement Program – Wetland Reserve Easement
- (5) AECLU—agreement to enter contract for 30-year land use (WRE only)
- (6) AGI—adjusted gross income
- (7) ALEP—agricultural land easement plan (ALE only)
- (8) ALTA—American Land Title Association
- (9) AMA—Agricultural Management Assistance Program
- (10) APCE—agreement for the purchase of a conservation easement (WRE only)
- (11) AWMA—areawide market analysis
- (12) BIA—U.S. Bureau of Indian Affairs
- (13) BLM—U.S. Bureau of Land Management
- (14) B-P-S—Buy-Protect-Sell (ALE only)
- (15) CAH—NRCS Contribution Agreements Handbook
- (16) CCC—Commodity Credit Corporation
- (17) CCR—Central Contractor Registration
- (18) CD—conservation desktop
- (19) CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act
- (20) CFDA—Code for Federal Domestic Assistance
- (21) CFR—Code of Federal Regulations
- (22) CPC—conservation program contract
- (23) CPM—Conservation Program Manual
- (24) CREP—Conservation Reserve Enhancement Program
- (25) CRP—Conservation Reserve Program
- (26) CSP—Conservation Security Program
- (27) CST—Customer Service Toolkit
- (28) CUC—certificate of use and consent
- (29) CY—calendar year
- (30) DOJ—U.S. Department of Justice
- (31) DUNS—Dun and Bradstreet Data Universal Numbering System
- (32) EIN—employee identification number
- (33) EAB—Easement Acquisition Branch (formerly Easement Support Service Branch (ESS))
- (34) EFT—electronic fund transfer
- (35) EPD—Easement Programs Division
- (36) EQIP—Environmental Quality Incentives Program
- (37) ESA—Endangered Species Act of 1973
- (38) EWRP—Emergency Wetland Reserve Program
- (39) FAADS—Federal Assistance Award Data System
- (40) FAR—Federal Acquisition Regulation
- (41) FCIP—final certificate of inspection and possession
- (42) FIPS—Federal Information Processing Standard
- (43) FIRREA—Financial Institution’s Reform, Recovery and Enforcement Act of 1989
- (44) FGCAH—Federal Grants and Cooperative Agreements Handbook
- (45) FMMI—Financial Management Modernization Initiative

## Title 440 – Conservation Programs Manual

- (46) FMV—fair market value
- (47) FOIA—Freedom of Information Act
- (48) FOTG—NRCS Field Office Technical Guide
- (49) FPAC-BC—Farm Production and Conservation – Business Center
- (50) FPAC-BC AD—FPAC-BC Acquisitions Division (formerly Contracting Services Branch (CSB))
- (51) FPAC-BC GAD—FPAC-BC Grants and Agreements Division (formerly Grants and Agreements Service Branch (GASB))
- (52) FPAC-BC POS—FPAC-BC Payment operations section (formerly Accounts Payable Support Branch (APSB))
- (53) FRPP—Farm and Ranch Lands Protection Program
- (54) FPP—Farmland Protection Program
- (55) FSA—USDA Farm Service Agency
- (56) FTO—final title opinion
- (57) FWS—U.S. Fish and Wildlife Service
- (58) FY—fiscal year
- (59) GARC—geographic area rate cap (WRE only)
- (60) GIS—Geographic Information System
- (61) GM—General Manual
- (62) GPS—Global Positioning System
- (63) GRP—Grassland Reserve Program
- (64) GSS—grassland of special environmental significance (ALE only)
- (65) HEL—highly erodible land
- (66) HFRP—Healthy Forest Reserve Program
- (67) IAS—Integrated Accountability System
- (68) IBIL—Internet Billing System
- (69) IC—internal controls
- (70) IPP—Invoice Processing Platform
- (71) IRC—Internal Revenue Code of 1986
- (72) IRS—U.S. Internal Revenue Service
- (73) LESA—land evaluation and site assessment
- (74) NAD—USDA National Appeals Division
- (75) NASS—USDA National Agricultural Statistical Survey
- (76) NEPA—National Environmental Policy Act
- (77) NEST—National Easement Staging Tool
- (78) NFC—National Financial Center
- (79) NFSAM—National Food Security Act Manual
- (80) NGCE—NRCS National Geospatial Center of Excellence
- (81) NGO—nongovernment organizations
- (82) NHPA—National Historic Preservation Act
- (83) NHQ—National Headquarters
- (84) NPPH—National Planning Procedures Handbook
- (85) NRCS—Natural Resources Conservation Service
- (86) NSSH—National Soil Survey Handbook
- (87) OGC—Office of the General Counsel
- (88) O&M—operation and maintenance
- (89) PCIP—preliminary certificate of inspection and possession
- (90) PTO—preliminary title opinion (WRE only)
- (91) RC—regional conservationist
- (92) RFP—request for proposals
- (93) RFO—Responsible Federal Official

## Title 440 – Conservation Programs Manual

- (94) SAM—System for Award Management
- (95) SCIMS—Service Center Information Management System
- (96) SHPO—State historic preservation officer
- (97) SSN—Social Security number
- (98) STC—State technical committee
- (99) TDR—transfer development rights
- (100) THPO—Tribal historic preservation officer
- (101) TIN—tax identification number
- (102) TOPA—Transfer of Purchase Agreement for Easement Programs
- (103) TSP—technical service provider
- (104) UASFLA—Uniform Appraisal Standards for Federal Land Acquisitions
- (105) USDA—U.S. Department of Agriculture
- (106) USFS—U.S. Forest Service
- (107) USPAP—Uniform Standards of Professional Appraisal Practices
- (108) WBS—FMMI work breakdown structure
- (109) WC—wetland conservation compliance
- (110) WED—warranty easement deed (WRE only)
- (111) WHIP—Wildlife Habitat Incentives Program
- (112) WRCG—Wetland Restoration Criteria and Guidelines
- (113) WREP—Wetland Reserve Enhancement Partnership
- (114) WRP—Wetland Reserve Program
- (115) WRPO—wetland reserve plan of operations