Applicability of ACEP Regulations and Policy

The ACEP interim rule (a.k.a. ACEP regulation) was published in the Federal Register at 7 CFR Part 1468 on January 6, 2020, and is available for public comment until March 20, 2020. The ACEP policy and procedure that must now be followed is provided in the ACEP manual published to the NRCS eDirectives website at Title 440, Conservation Programs Manual (CPM), Part 528. The regulation sections and manual subparts are organized by joint ACEP provisions that are applicable across ACEP and then provisions specific to Agricultural Land Easement (ACEP-ALE) and provisions specific to Wetland Reserve Easement (ACEP-WRE).

All FY 2020 ACEP applications and enrollments are subject to the above-referenced ACEP regulations and policy. All existing ACEP-ALE agreements originally executed under the 2014 Farm Bill, including all parcels associated with such agreements, continue to be subject to the regulations in place at the time the ACEP-ALE agreements were originally executed and the specific terms of such agreements. The applicability of the new ACEP interim rule and policy to existing ACEP-WRE enrollments and FY 2019 ACEP enrollments that existed prior to the date of publication of the ACEP interim rule vary based on the status of the enrollment, whether it has been acquired or still in the process of being acquired, and are addressed in the various regulation and policy parts, in this bulletin, and other national guidance.

Allocation and Authority Status

The agency has received its full apportionment of ACEP financial assistance (FA) and technical assistance (TA) funds for FY 2020 and States are now in receipt of their allocation of such funds for use in FY 2020. States have the authority to use existing allocations to undertake all activities identified in the FY 2020 allocation letters. In addition, all States are authorized to—

- Announce application cutoff dates;
- Conduct all activities needed to process and administer applications and enter into new enrollments in FY 2020; and
- Conduct all program implementation activities on new and existing enrollments, in accordance with the applicable ACEP policy and regulation.

States may not transfer allocated funds between ACEP-WRE and ACEP-ALE (including between ACEP-ALE and ALE-Grassland of Special Environmental Significance (GSS)).

The agency has also received its full apportionment of repealed easement program (Farm and Ranch Land Protection Program (FRPP), Grassland Reserve Program (GRP), and Wetland Reserve Program (WRP)) funds, which will be allocated based on individual State requests submitted to the appropriate national program manager and applicable regional conservationist. States that receive repealed easement program funds (FRPP, GRP, and WRP) may obligate and use such funds in FY 2020 in accordance with applicable allocation guidance. ACEP funds may be used on existing FRPP, GRP, or WRP enrollments and easements where use of the original program funds is not appropriate or if such funds are no longer available.
States may submit requests for additional funds or adjustments to allocations in accordance with applicable allocation guidance. Obligation of all funds allocated in FY 2020 must occur prior to the end of the fiscal year and any funds not obligated will be swept by National Headquarters (NHQ) at the end of the fiscal year.

ACEP funds (allocated as ACEP and ACP8 funds) may not be used to support activities through new (2018 Farm Bill) or existing (2014 Farm Bill) Regional Conservation Partnership Program (RCPP) agreements. Similarly, RCPP funds may only be used for activities authorized through RCPP agreements and not in support of general ACEP activities.

**FY 2020 Announcement of ACEP Funding and Application Deadlines**

States were provided initial guidance for the announcement of ACEP application signup opportunities and application cutoff dates for FY 2020 in National Bulletin (NB) 440-20-12, “Agricultural Conservation Easement Program (ACEP) Fiscal Year (FY) 2020 Applications, Signup Announcement, and Ranking Guidance.”

In establishing application cutoff dates, States must assess their workload and allow sufficient time for steps required for obligation to be completed prior to the end of the fiscal year, including but not limited to ranking, due diligence, eligibility determinations, contracting, planning, State- and national-level internal control reviews, and actions required by administrative support teams within the Farm Production and Conservation Business Center (FPAC-BC). An FY 2020 timeline providing target dates for submission and completion of required activities is provided as attachment B to this bulletin. If these target dates are not met, there may not be sufficient time to complete all required actions for enrollment and obligation in FY 2020. States are reminded that the FPAC-BC may establish submittal deadlines different than the target dates identified in attachment B of this bulletin.

**Processing Applications**

**ACEP Applications**

States should make potential program participants, including ALE eligible entities and WRE landowners aware of the new ACEP opportunities and any application cutoff dates for FY 2020. For applications to be considered for funding in FY 2020, the appropriate application forms must be used as identified in NB 440-20-12.

**Easement Business Tool Data Entry and Reporting**

**ACEP**

All ACEP applications must be planned in Conservation Desktop (CD), assessed and ranked using the Conservation Assessment Ranking Tool (CART), and practice schedule deployed through the cost list agreement module in CD.

**ACEP-WRE**

States must enter ACEP-WRE applications into the National Easement Staging Tool (NEST) as they are received. All ACEP-WRE applications must be entered before the end of fiscal year NEST shutdown, including ineligible, cancelled, and deferred applications. Existing unfunded ACEP-WRE applications entered in NEST with a status of preapproved, eligible, pending, or draft have rolled over from FY 2019 and remain available for consideration if the landowner is still interested. As States determine the landowner’s continued interest, the application statuses in NEST must be updated accordingly. As applicable, the appropriate national landscape
initiative must be selected from the drop-down data element choice on the NEST application page.

ACEP-ALE
In FY 2020, three ALE-agreement types are available: the ACEP-ALE Program Agreement, the ACEP-ALE Cooperative Agreement, or the ACEP-ALE Grant Agreement (see 440-CPM-528-F-528.50 and sections below for additional information on ALE agreement types). The easement business tool States must use to enter and track the ALE-agreement and associated parcel information is based on the ALE-agreement type, as follows:

- For ACEP-ALE Program Agreements.—States will use ProTracts and must enter the applications into ProTracts as they are received. States will be provided information for the use of ProTracts for ACEP-ALE Program Agreements through specific guidance on ACEP-ALE Program Agreements. State easement program managers must work with their States ProTracts Role Grantor to ensure appropriate NRCS staff have the necessary roles in ProTracts.

- For ACEP-ALE Cooperative Agreements or ACEP-ALE Grant Agreements.—States will be provided separate guidance on the appropriate business tool to be used for ACEP-ALE cooperative and grant agreement data entry for FY 2020.

All FY 2020 ACEP-ALE applications must be entered in the appropriate easement business tool before the end of fiscal year shutdown of such tools including ineligible, cancelled, and deferred applications.

To be considered for funding in FY 2020, eligible entities must submit a properly completed and executed application on the new ACEP-ALE application Forms NRCS-CPA-41, “Entity Application for an Agricultural Land Easement (ALE) Agreement,” and NRCS-CPA-41A, “Parcel Sheet for Entity Application for an ALE Agreement” by the required application deadlines and as described in the NB 440-20-12. Once a properly completed application is received, States must enter a new application in the appropriate business tool.

All existing applications in NEST, except those with a status of substitute, entered prior to the publication of NB 440-20-12, including any prior applications that were promoted to FY 2020 in NEST will be set to cancelled by the Easement Programs Division, no action is required by States for this clean-up activity. This will include unfunded parcel contract applications from the FY 2019 Program Agreement Pilot. At this time, the only FY 2020 ACEP-ALE applications to be entered in NEST are substitute parcels under FY 2019 and earlier ACEP-ALE cooperative and grant agreements.

Ranking
The 2018 Farm Bill included new language regarding considerations for prioritization, ranking, and selection of ACEP applications. Additionally, the new Conservation Assessment Ranking Tool (CART) has been deployed and is required for use in ranking applications in FY 2020 (see National Instruction (NI) 440-310, “NRCS Program Ranking through Conservation Assessment Ranking Tool (CART),” and supplemental FY 2020 CART guidance and training materials). The ACEP interim rule and policy manual have been updated to address the statutory changes and accommodate the procedural changes associated with CART. (See for ACEP-ALE, 7 CFR
States must review the ACEP interim rule and policy manual and ensure the applicable ACEP ranking criteria are appropriately addressed in the ranking factors, ranking pools, categories, or other prioritization considerations developed in CART in accordance with NI 440-310. As identified in NB 440-20-12, prior to the end of the first announced application cutoff date for FY 2020, the criteria NRCS will use to rank applications must be posted to the State ACEP webpage. However, the requirement that such criteria be posted 30 days prior to the end of the first application cutoff date is not applicable for FY 2020.

For FY 2020, all eligible applications must be ranked in CART using the published ranking factors. For ACEP-WRE, the resultant ranking score must be entered into NEST for all ranked ACEP-WRE applications. For ACEP-ALE Parcel applications, guidance on the entry of the CART-generated ranking scores in the appropriate business tool will be provided separately.

### Eligibility Determinations

**ACEP**

For new enrollments in FY 2020, States must follow all landowner eligibility, land eligibility, and for ACEP-ALE, entity eligibility requirements in the newly published ACEP interim rule, policy manual, and associated FY 2020 guidance documents. All applicants’ eligibility documentation must be current for FY 2020 and all current landowners of record must be determined eligible for FY 2020 prior to execution of enrollment agreements. States must confirm land eligibility determinations as of FY 2020 and land eligibility determinations completed in a prior fiscal year must be updated accordingly. Reviews of due diligence and title search documents and eligibility determinations should be completed by the target dates identified in attachment B to facilitate successful enrollment of selected eligible applications in FY 2020.

Prior to execution of enrollment agreements and obligation of funds, all landowners must have an eligible adjusted gross income (AGI) subsidiary status of either “Compliant-Producer,” “Compliant less than 3 years,” or “Mismatch Verified,” or have an AGI-exempt business type or an exemption as an Indian Tribe. The AGI status of “Filed CCC-941” is not considered compliant status for execution of enrollment agreements and obligation of funds in FY 2020.

**NOTE:** The implementation of the new provisions in the 2018 Farm Bill related to the Secretary’s authority waive the AGI limitation on a case-by-case basis, if the Secretary determines that environmentally sensitive land of special significance will be protected as a result of such waiver, is pending publication of updates to 7 CFR Part 1400 and associated NRCS-specific guidance for FY 2020. However, as the requirement to file the AGI paperwork is not the subject of the waiver, all landowners and required landowner-entity members must still file the required AGI paperwork and have AGI determinations completed by the Farm Service Agency (FSA) for FY 2020 (see for ACEP-ALE, 440-CPM-528-D-528.35 and for ACEP-WRE, 440-CPM-528-K-528.103). Until such time as the FSA regulations and associated NRCS policy and guidance is published and subsequently implemented, applications with AGI ineligible landowners must remain in a pending status unless otherwise determined ineligible, and those with otherwise eligible landowner-legal entities that are subject to a commensurate reduction, may only proceed if such landowners agree to the commensurate reduction.
ACEP Enrollment Types

ACEP.—ACEP enrollment options under the 2018 Farm Bill and available in FY 2020 are as follows:

- **ACEP-ALE.**—Agricultural land easements that are perpetual or maximum duration allowed under State law and acquired through a standard ACEP-ALE transaction or through an ACEP-ALE buy-protect-sell transaction (see 440-CPM-528-D-528.30E).
- **ACEP-WRE.**—Wetland reserve easements that are perpetual, 30-years, or maximum duration allowed under State law, easements with a reservation of grazing rights for one of the above listed durations, or 30-year contracts on acreage owned by Indian Tribes.

ACEP-ALE, Buy-Protect-Sell.—The 2018 Farm Bill added a new transaction type under ACEP-ALE for buy-protect-sell transactions. These transactions have been defined in the ACEP interim rule at 7 CFR Part 1468.3 and basic requirements and provisions for buy-protect-sell transactions incorporated throughout the revised ACEP policy manual (440-CPM-528). At the time of application, the eligible entity must specify the transaction type that will be used to acquire the agricultural land easement on the individual parcel. All transaction types must meet the requirements of 440-CPM-528; buy-protect-sell transactions must also meet the additional requirements as set forth and provided to States in the forthcoming supplemental guidance specific to buy-protect-sell transactions.

ACEP-WRE, Reservation of Grazing Rights Option.—The 2018 Farm Bill provides NRCS with authority and discretion to enroll ACEP-WRE easements with a reservation of grazing rights under certain conditions. States must review the ACEP interim rule and associated policy at 440-CPM-528-Q-528.162, which have been updated to address new provisions in the 2018 Farm Bill related to this enrollment option.

Prior to execution of any new enrollment agreements under this option, all States interested in this enrollment option in FY 2020, must submit their draft Exhibit Es to the warranty easement deed to the Easements Programs Division (EPD) for review and must receive written approval from the EPD director. Exhibit E’s approved for use under the 2014 Farm Bill or in the FY 2019 transition year are not authorized for use on new enrollments under the 2018 Farm Bill beginning in FY 2020. After reviewing the ACEP interim rule and updated policy, States may develop new or review and update existing Exhibit E documents and submit to EasementSupport@usda.gov for EPD review and approval for use under the 2018 Farm Bill. The EPD-approved Exhibit E and the documentation of the EPD approval must be uploaded to NEST for each FY 2020 ACEP-WRE reservation of grazing rights enrollment.

Consistent with prior fiscal years, for FY 2020 the easement compensation values for ACEP-WRE reservation of grazing rights enrollments must be calculated by first determining the easement compensation value that would be applicable to a regular ACEP-WRE enrollment for the same term (easement duration) on the same land and then reducing that value by 25 percent.

Easement Valuation

ACEP.—Easement compensation policy, specifications, and scopes of work specific to ACEP are provided in the ACEP manual and associated exhibits (see 440-CPM-528-F-528.53 for ACEP-ALE and 440-CPM-528-M-528.122 for ACEP-WRE).
ACEP-WRE.—Prior to enrolling new offers in FY 2020, States must have geographic area rate caps (GARCs) approved for use in FY 2020 along with an approved areawide market analysis (AWMA) or a reviewed, approved, and unexpired individual Uniform Standards of Professional Appraisal Practices (USPAP) appraisal. States must follow guidance related to the use, applicability, and limitations of AWMAas as provided by EPD in the State’s individual FY 2020 AWMA approval documentation.

For projects using individual appraisals for enrollment in FY 2020, it is critical that States (including the EPD Easement Acquisition Branch (EAB)) coordinate with and submit the necessary information to the FPAC-BC Acquisitions Division to ensure both the appraisal and the appraisal technical review are contracted from appropriate vendors at the same time. States must identify local appraisers available to complete the appraisals and submit these to the FPAC-BC Acquisitions Division. Contact NRCS national appraiser Don Howard, by email at don.howard@usda.gov, for guidance on finding qualified appraisers if necessary. Do not rely on FPAC-BC Acquisitions Division to identify qualified local appraisers.

States must not procure new or updated AWMAas for use in FY 2021 until the revised ACEP-WRE AWMA statement of work and specifications that must be used for the procurement of AWMAas in FY 2020 for use in FY 2021 have been published and States have received authorization to proceed.

ACEP-ALE.—The 2018 Farm Bill did not change the methods used to determine the Federal share or the limits of the Federal share that may be provided as cost-share assistance for the entity’s purchase of an agricultural land easement. The Federal share remains limited to not more than 50 percent of the fair market value of the agricultural land easement for general ALE and not more than 75 percent for Grasslands of Special Environmental Significance (ACEP-ALE-GSS).

ACEP-ALE Non-Federal Share Requirements

ACEP-ALE.—The 2018 Farm Bill made changes to the requirements for the non-Federal share provided by the eligible entity. States must review the new ACEP interim rule and policy manual which have been updated with the non-Federal share requirements and provisions applicable to all enrollments under the 2018 Farm Bill (see 7 CFR Part 1468.24 and 440-CPM-528-E-528.43). Additionally, the ACEP-ALE forms required for application, enrollment, and payment have been updated to implement the new non-Federal share requirements and will be initially published as attachments to the series of FY 2020 implementation guidance documents, including this national bulletin.

All ALE-agreements executed in FY 2020 are subject to the 2018 Farm Bill non-Federal share requirements and must use the appropriate versions of the updated forms and documents based on the ALE-agreement type (ACEP-ALE cooperative, grant, or program agreement), enrollment type (general ALE or ACEP-ALE-GSS), and transaction type (standard transaction or buy-protect-sell transaction).

The updated forms attached to this national bulletin include the statements of work for ACEP-ALE cooperative and grant agreements and the associated exhibits to these ALE-agreements, the 2018 Farm Bill versions of the “Statement to Confirm Matching Funds,” (Forms NRCS-CPA-230E and 230F or successor form), and the updated Standard Form (SF) 270, “Request for Advance or Reimbursement,” supplements (for ACEP-ALE cooperative agreements or for
Non-Federal Share Requirements for FY 2019 ALE-Agreements: Eligible entities with ALE-agreements originally executed in FY 2019, with remaining, unclosed parcels selected for funding, have, per the terms of the ALE-agreement, the option on an individual parcel basis, to continue to meet the 2014 Farm Bill eligible entity contribution requirements as described in the applicable ALE-agreement or to meet the 2018 Farm Bill eligible entity contribution requirements as published in the ACEP interim rule and updated policy manual.

For eligible entities that elect the option to meet the 2018 Farm Bill eligible entity contribution requirements for one or more remaining unclosed parcels identified on an FY 2019 ALE-agreement, the required amendment or modification to the ALE-agreement must be fully executed prior to easement closing and prior to the submission of the payment request package for the affected parcel as follows:

- For FY 2019 ACEP-ALE cooperative or grant agreements, a no-cost amendment must be completed to attach as new exhibits to the ALE-agreement the updated forms required to be submitted in the payment request packages, including the applicable versions of the “Statement to Confirm Matching Funds” (Forms NRCS-CPA-230E or 230F) and the revised SF-270 supplement dated 02/2020.
- For States with FY 2019 pilot ACEP-ALE program agreements, contact the national ACEP-ALE program manager for specific guidance on the documents needed to modify the individual ACEP-ALE parcel cost-share contract for affected parcels.

The Federal share provided for remaining unclosed parcels under these FY 2019 ALE-agreements does not change based upon the selected eligible entity contribution option. The Federal share for such parcels is limited to the amount identified in the ALE-agreement when originally executed and is subject to all applicable cost-share assistance and match requirements being met (see also 440-CPM-528-E-528.43).

2014 Farm Bill ALE-Agreements.—All remaining, unclosed parcels identified on ALE-agreements originally executed under the 2014 Farm Bill remain subject to the cost-share assistance and match requirements of the 2014 Farm Bill as set forth in the ACEP regulations in place at the time the ALE-agreement was originally executed and further specified in the terms of the ALE-agreement (see also 440-CPM-528-E-528.43).

FY 2020 Agreement and Deed Requirements for New Enrollments

ACEP.—NRCS will provide all applicants interested in enrollment in ACEP in FY 2020 a copy of the applicable required agreement and associated contracts, deed terms, warranty easement deed, or 30-year contract. States must explain to the applicant that acceptance of the terms of the agreements, deeds, or contracts as written is required as a condition of participation in ACEP. Applications should not be recommended for funding in FY 2020 if applicants are not willing to accept the required agreement, deed, or contract terms.
ACEP-WRE Agreements and Deed Requirements

The ACEP-WRE purchase agreements that must be used for all FY 2020 ACEP-WRE enrollments, are as follows:

Easements.—The “Agreement for the Purchase of Conservation Easement” (APCE) (NRCS-LTP-31, dated 02/2020), has been updated and is provided as an exhibit to this bulletin.

30-Year Contracts.—The “Agreement to Enter 30-Year Contract for 30-Year Land Use” (AECLU) (NRCS-LTP-40, dated Dec. 2016), is posted to eForms and may continue to be used. States must enter the expiration years as identified below.

All APCEs and AECLUs executed in FY 2020 will expire February 15, 2022, with the optional extension date of February 15, 2023. The stipulation for a single 12-month extension to the agreement remains unchanged. For FY 2020, the execution and management of ACEP-WRE enrollment agreements must be conducted in accordance with the ACEP interim rule, updated policy, and applicable guidance.

ACEP-WRE easement enrollments will use the appropriate version of the ACEP-WRE Warranty Easement Deed (dated 10/17) posted on eforms, selecting either the “Warranty Easement Deed in Perpetuity” (Form NRCS-LTP-30), the “Warranty Easement Deed for a Period of 30-years” (Form NRCS-LTP-32), or for States with Exhibit Es approved for use in FY 2020, the “Warranty Easement Deed with Reservation of Grazing Rights” (Form NRCS-LTP-33). For FY 2020, ACEP-WRE 30-year contract enrollments, contact the national ACEP-WRE Program manager for an updated version of the applicable 30-year contract based on the specific ownership type.

ACEP-ALE Agreements Requirements

For FY 2020, there are three types of ALE agreements that may be entered into with an appropriately qualified eligible entity, as follows:

- **ACEP-ALE Program Agreement.**—This is a new ALE-agreement type that is available to any eligible entity type, including certified and noncertified eligible entities. Under an ACEP-ALE program agreement, the primary purpose of the program agreement itself is to serve as a one-time agreement that establishes the framework under which NRCS and an eligible entity will operate and provides for individual parcels to be acquired by the eligible entity through the execution of individual ACEP-ALE parcel cost-share contracts that are associated with the ACEP-ALE program agreement. The ACEP-ALE financial assistance funds are obligated on an individual parcel basis to the individual ACEP-ALE parcel cost-share contracts and funds are not obligated to the ACEP-ALE program agreement itself. This program agreement and parcel contract structure reduces the administrative burden associated with the agreement itself, allows for year-round selection and obligation of funds for individual parcels, and simplifies the processes for various changes that may be needed after obligation and prior to payment. ACEP-ALE program agreements and associated parcel cost-share contracts are managed and processed by NRCS through ProTracts. Because this is a new ALE-agreement type and is executed, managed, and tracked differently than other ALE-agreement types, specific guidance providing direction on the use of ACEP-ALE program agreements and parcel cost-share contracts will be issued separately. The ACEP-ALE program agreement offers
• **ACEP-ALE Cooperative Agreement.**—The ACEP-ALE cooperative agreement is the traditionally available option wherein NRCS and an eligible entity enter into the ACEP-ALE cooperative agreement, through which NRCS may provide ACEP-ALE financial assistance funds to the eligible entity subject to the terms of the agreement, for their purchase of an agricultural land easement on the parcels identified on an attachment to the cooperative agreement. The ACEP policy manual (440-CPM, Subpart F) and associated exhibits have been updated to clarify that use of an ACEP-ALE cooperative agreements is available to any eligible entity type, including a noncertified or certified eligible entity, and that all eligible entities that elect to use an ACEP-ALE cooperative agreement are subject to the terms and requirements of such agreement irrespective of the eligible entity’s certification status. Additional guidance for the use of ACEP-ALE cooperative agreements in FY 2020 is provided in this bulletin.

• **ACEP-ALE Grant Agreement.**—The ACEP-ALE grant agreement is the traditionally available option wherein NRCS and a certified eligible entity enter into the ACEP-ALE grant agreement, through which NRCS may provide ACEP-ALE financial assistance funds to the certified eligible entity subject to the terms of the agreement, for their purchase of an agricultural land easement on the parcels identified on an attachment to the ACEP-ALE grant agreement. ACEP-ALE grant agreements are only available to eligible entities that have been certified by NRCS in accordance with the provisions of the ACEP interim rule (7 CFR Section 1468.26), ACEP policy (440-CPM-528, Subpart H), and applicable supplemental guidance. Additional guidance for the use of ACEP-ALE grant agreements in FY 2020 is provided in this bulletin.

**Provisions Applicable to All FY 2020 ACEP-ALE Cooperative and Grant Agreements.**—
As in previous fiscal years, the version of the ACEP-ALE cooperative and grant agreement statement of work that must be used is based on the enrollment type of the parcels to be funded through the agreement, which must all be either general ALE parcels or ACEP-ALE-GSS parcels. Therefore, ACEP-ALE-GSS parcels may not be included on ACEP-ALE cooperative or grant agreements for general ALE parcels and general ALE parcels may not be included on ACEP-ALE cooperative or grant agreements for ACEP-ALE-GSS parcels.

**NOTE:** The limitation described above does not apply to ACEP-ALE program agreements, wherein general ALE parcels and ACEP-ALE-GSS parcels may be funded through the individual ACEP-ALE parcel cost-share contracts associated with the same ACEP-ALE program agreement.

The updated statements of work (SOW) for the ACEP-ALE cooperative agreements and ACEP-ALE grant agreements that must be used in FY 2020 and the associated agreement attachments and exhibits, are provided as attachments to this bulletin. The ACEP-ALE SOW Attachment A, “The List of Agricultural Land Easement Parcels Selected for Funding with FY 2020 ACEP Funds and Identified Substitute Parcels,” provided as an attachment to this bulletin must be used for all FY 2020 ACEP-ALE cooperative and grant agreements. As in prior fiscal years, the ACEP-ALE cooperative and grant agreements used in FY 2020 may not be amended to add new attachments to fund additional parcels in future fiscal years. The applicable statements of work for the ACEP-ALE cooperative and grant agreements include this provision and eligible entities and should be made aware of this limitation.
ACEP-ALE Deed Terms and Requirements for FY 2020

The 2018 Farm Bill included changes that required updates to the ACEP-ALE regulatory deed requirements and associated the ALE-agreement requirements and minimum deed terms to address the intent of those changes. The ACEP-ALE regulatory deed requirements that must be addressed in all agricultural land easements acquired through ALE-agreements executed under the 2018 Farm Bill have been published in the ACEP interim rule (7 CFR Section 1468.25), the ACEP policy manual (440-CPM-528, Subpart G), and associated guidance and exhibits.

The “Minimum Deed Terms for the Protection of Agricultural Use” (ALE Minimum Deed Terms addendum dated February 2020) must be attached to all FY 2020 ACEP-ALE cooperative agreements and all ACEP-ALE program agreements with noncertified eligible entities and addressed as provided in the terms of the ALE-agreements.

States may notify noncertified eligible entities that new entity-specific template deeds may now be submitted to NRCS for review and approval and that such deed templates must be developed using ALE minimum deed terms dated February 2020. States must review and submit the eligible entity’s proposed entity-specific deed template to EPD for review and approval prior to use under any FY 2020 ALE-agreements and in accordance with 440-CPM-528-G-528.61.

For certified entities entering into an ACEP-ALE grant agreement or ACEP-ALE program agreement in FY 2020, the agreement provisions associated with the regulatory deed requirements have been updated in the statements of work for these agreement types (see ACEP-ALE grant agreement statements of work provided with this bulletin and ACEP-ALE program agreement terms provided in separate guidance).

ACEP-ALE Deed Terms and Requirements for FY 2019 ALE-Agreements.—FY 2019 was a transition year, and as a result the FY 2019 ALE-agreement statements of work may have no-cost amendments or modifications executed to authorize the use of the certain provisions of the ACEP interim rule and revised ACEP policy as described below.

FY 2019 ACEP-ALE Cooperative Agreements.—Eligible entities with ACEP-ALE cooperative agreements originally executed in FY 2019, with remaining, unclosed parcels selected for funding, have per the terms of such agreements, the option on an individual parcel basis to: 1) continue to use the version of the minimum deed terms addendum (dated February 2019) originally attached to the agreement, 2) amend the agreement to attach the most recent version of the minimum deed terms in effect at the time of parcel closing (at this time these are the minimum deed terms addendum dated February 2020), or 3) amend the agreement to attach an NRCS NHQ-approved entity-specific deed template (approved FY 2020 or later).

For eligible entities that elect the option to use the ALE minimum deed terms addendum (dated February 2020) or an NRCS National Headquarters (NHQ)-approved entity-specific deed template, for one or more remaining unclosed parcels identified on the agreement, a no-cost amendment to the FY 2019 ACEP-ALE cooperative agreement must first be completed. This no-cost amendment will attach as a new exhibit to the ACEP-ALE cooperative agreement the ALE minimum deed terms addendum (dated February 2020) or NRCS NHQ-approved entity-specific deed template. Such deed terms addendum or deed template may only be used for parcels that are unclosed as of the date an ALE-agreement amendment to include such attachments is fully executed by all required parties and are submitted to NRCS in accordance with the terms and conditions of the ALE-agreement.
FY 2019 ACEP-ALE Grant Agreements.—Certified eligible entities with ACEP-ALE grant agreements originally executed in FY 2019, with remaining, unclosed parcels selected for funding on such agreements, may request a no-cost amendment to the ACEP-ALE grant agreement to modify the agreement to require remaining parcels be subject to the provisions of the ACEP interim rule at 7 CFR 1468.25(d) as published on January 20, 2020. States with certified eligible entities requesting this change to the ACEP-ALE grant agreement must contact the ACEP-ALE national program manager to receive the specific guidance on the updated language that must be included in the amended ACEP-ALE grant agreement.

The use of deeds that meet the updated regulatory deed requirements is only applicable for parcels that are unclosed as of the date an ACEP-ALE grant agreement amendment to update the terms of the agreement are fully executed by all required parties.

FY 2019 ACEP-ALE Cooperative and Grant Agreements for ACEP-ALE-GSS.—All parcels funded through an FY 2019 ALE-agreement for ACEP-ALE-GSS enrollments must have a grassland management plan developed in accordance with the original terms of the FY 2019 ALE-agreements. Such agreements may not be amended to remove this requirement.

FPAC BC Grants and Agreements Division Process

FY 2020 ACEP-ALE Cooperative and Grant Agreements.—As part of the NHQ processing, States must submit all required forms including the draft SOWs, through ServiceNow to the FPAC BC Grants and Agreements Division (GAD) for servicing prior to obligation. States must complete and upload all required documents as identified in policy and FPAC BC GAD customer guides by the target date provided in attachment B or earlier deadline as set by FPAC BC GAD. States may also be required to submit a request for “IC preobligation” indicating that States have completed their IC reviews using the FY 2020 IC preobligation checklists and have submitted the draft SOW and associated forms to FPAC-BC GAD.

For FY 2020, the FPAC BC GAD may in accordance with its procedures, determine whether the submitted draft ACEP-ALE cooperative and grant agreement meets the requirements to be processed in ezFedGrants (eFG) or if other processing options will be available outside of EFG. States may be notified by FPAC BC GAD if additional steps are needed for ACEP-ALE cooperative and grant agreements that can be processed in eFG.

National Instruction 300-302, “Streamlining the Agricultural Conservation Easement Program (ACEP) Agricultural Land Easement (ALE) Cooperative and Grant Agreements, Amendments, and Modifications Review and Approval Process,” is not applicable to ACEP-ALE cooperative or grant agreements processed in FY 2020.

Note: Substitute parcels added to ACEP-ALE cooperative and grant agreements executed in FY 2019 or prior will continue to follow NI 300-302.

FY 2020 ACEP-ALE Program Agreements.—ACEP-ALE program agreements and associated parcel cost-share contracts are entered into and managed by NRCS through ProTracts. ACEP-ALE program agreements and associated parcel cost-share contracts are not submitted to or processed by FPAC BC GAD. Specific guidance providing direction on the processing of ACEP-ALE program agreements and associated parcel cost-share contracts will be issued in separate national guidance.
ACEP-ALE Entity Certification

The 2018 Farm Bill retained the original criteria and added new criteria that may be used in the ACEP-ALE entity certification process. The criteria and procedures that NRCS will use to review and approve eligible entity requests for certification beginning in FY 2020 are provided in the ACEP interim rule (7 CFR 1468.26) and ACEP policy manual (440 CPM-528-H). The terms of the ACEP-ALE grant agreement may not be modified under any circumstances and willingness to accept the terms of the ACEP-ALE grant agreement as published continues to be a condition of certification. However, once certified by NRCS NHQ, a certified eligible entity may participate in ACEP-ALE as a certified eligible entity by entering into an ACEP-ALE grant agreement or an ACEP-ALE program agreement containing terms for certified eligible entities.

Eligible entities certified under the 2014 Farm Bill may retain their “certified entity” status under ACEP-ALE for FY 2020 provided such entities affirm in writing their acceptance of the terms of the ACEP-ALE grant agreement approved for use under the 2018 Farm Bill and provided as an attachment to this bulletin. EPD will issue letters to all existing certified eligible entities to communicate these requirements and relay the determination of the eligible entity’s certification status for FY 2020 to the eligible entity and the State. States will be notified individually if action is needed.

Required Easement Plans

ACEP-WRE.—The 2018 Farm Bill amended provisions related to the wetland reserve easement plan to expand and clarify the purpose of the plan as well as the nature of the practices and activities the plan should address. States must review the ACEP interim rule and associated policy which have been updated to address these provisions (see 7 CFR Part 1468, sections 3, 36, and 38, and 440-CPM-528, Subparts N and P).

All ACEP-WRE enrollments must have a wetland reserve plan of operations (WRPO) as part of an easement casefile created in Conservation Desktop (CD) and completed in accordance with regulation and policy.

Prior to obligating easement and associated restoration funds, all ACEP-WRE enrollments must have a preliminary WRPO, including a conservation plan map and schedule of operations from CD, and the associated supplement for the preliminary obligation of restoration funds (supplement) completed using the version provided as an exhibit to the ACEP policy manual (440-CPM-528-528.U-224J). Sufficient documentation must be retained in the official easement case file and uploaded to NEST to support the calculations used to determine the cost estimates identified on the supplement.

ACEP-ALE.—The 2018 Farm Bill removed the requirement for the agricultural land easement to be subject to an ALE plan and modified the plan requirements in the minimum terms and conditions section of the statute. States must review the ACEP interim rule and ACEP policy manual which have been updated to reflect the new requirements, provisions, and procedures applicable to agricultural land easement plans and planning on ACEP-ALE enrollments under the 2018 Farm Bill (see 7 CFR Part 1468.3 and Subpart B, and 440-CPM-528-G-528.63).

If the development of an agricultural land easement plan, including any component plans, is either required or agreed-to as a condition of funding, the ALE deed must include language identifying that such plans will be prepared and updated. For noncertified eligible entities, the
appropriate agricultural land easement plan language provided in the ALE minimum deed terms addendum must be included.

NRCS will not develop any agricultural land easement plans on FY 2020 enrollments, except for required highly erodible land (HEL) conservation plans on highly erodible cropland. NRCS may continue to provide conservation technical assistance (CTA) directly to landowners requesting NRCS assistance; however, any CTA planning assistance is separate from the agricultural land easement planning process.

**FY 2019 ALE-Agreements to Enroll ACEP-ALE-GSS Parcels.**—All ACEP-ALE-GSS parcels must have a grassland management plan developed by the eligible entity.

**2014 Farm Bill ALE-Agreements.**—ACEP-ALE agreements executed under the 2014 Farm Bill remain subject to the authorities and requirements of the statute and regulations in place at the time the ALE-agreement was executed. Therefore, all ALE deeds for parcels funded through 2014 Farm Bill ACEP-ALE agreements must continue to include the terms that identify that the agricultural land easement is subject to the ALE plan. Additionally, the development in CD and approval of an ALE plan and any required component plans is required prior to closing in accordance with such regulations as identified in the terms of the ALE-agreement and the applicable ACEP-ALE policy as identified in 440-CPM-528-G-528.63. Additional information on the treatment of 2014 Farm Bill enrollments is provided throughout this bulletin.

**State-Specific Wetland Restoration Criteria and Guidelines (WRCG) Development**

**ACEP-WRE.**—The 2018 Farm Bill included new language on various restoration, management, and planning provisions for ACEP-WRE, including a requirement for State-specific criteria and guidelines to be used in the establishment and restoration of appropriate vegetative communities on wetland reserve easements. The ACEP interim rule addresses these statutory provisions, including an update to the definition of wetland restoration (see 7 CFR Part 1468, Sections 3, 38 and preamble). The ACEP policy manual has also been updated to clarify principles and reflect new requirements, considerations, and procedures for wetland restoration as it relates to eligibility, ranking, selection, restoration, enhancement, and management of wetlands and associated habitats on new and existing ACEP-WRE enrollments (see 440-CPM-528-N).

As a result of these changes, States must now develop a State-specific wetland restoration criteria and guidelines (WRCG) document. When fully complete, the State-specific WRCG should be a robust document that can serve as a basis for various technical determinations and decisions related to wetland restoration activities implemented under ACEP-WRE throughout the lifespan of an easement or 30-year contract. The policy identifies items that the WRCG must include and those that are recommended to be included in the WRCG. At a minimum and as described in 440 CPM-528-N-528.131(B)(2), the WRCG must identify historic wetland types, potential alternative communities and associated requirements and limitations, and the land eligibility considerations and limitations for the enrollment of adjacent lands. Due to the limited time remaining in the fiscal year, these three required sections of the WRCG must be completed in FY 2020 as follows:

1) The identification of the historic wetland types, with a focus on those commonly enrolled in or restored under ACEP-WRE, and the associated information must be described in the WRCG accordance with 440 CPM-528-N-528.131(B)(2). States must complete this portion of the WRCG in conjunction with and by the applicable deadlines identified in
paragraphs (2) or (3), except those States that will not undertake in FY 2020 the activities described in paragraphs (2) or (3) below, in which case this portion of the WRCG must be developed prior to the end of FY 2020.

2) The technical considerations and criteria for alternative communities must be developed and described in the WRCG in accordance with 440-CPM-528-N, prior to the execution of an enrollment agreement for any application on which the preliminary WRPO includes the restoration (including establishment) of an alternative community or prior to the completion or revision of any WRPOs or issuance of compatible use agreements (CUAs) that would provide for the restoration or management of alternative communities on existing enrollments.

3) The technical considerations and criteria used to determine the eligibility of acres under the adjacent land eligibility criteria must be developed and described in the WRCG in accordance with 440-CPM-528-K-528.105(I) and 528.131(B), prior to the execution of an enrollment agreement for any application that includes acres determined eligible based on the adjacent land eligibility criteria.

**Note:** The timelines provided above are the minimum requirements, however it is strongly recommended that States complete these portions of the WRCG prior to finalizing assessment and ranking of applications. Ranked applications that require adjustment prior to enrollment based on the technical criteria and guidelines established in the WRCG may need to be reranked depending on the nature of the change.

### Conservation Practices and Financial Assistance for Restoration Activities

**ACEP-WRE.**—For ACEP-WRE, all easement acquisition conservation activities and conservation practices needed for restoration and management of the proposed enrollment must be included during the assessment phase in CART and in the planning in CD. However, ACEP-WRE financial assistance funds may only be provided for specified conservation practices, the list of which are included in the national ranking templates in CART. Until further CART functionality is released, conservation practices that are not eligible for financial assistance should be included in a conservation technical assistance plan (for noncontract items) but will not appear on the contract or the plan associated with contract items.

Under ACEP-WRE, if NRCS determines grazing to be an appropriate management tool that is compatible and consistent with the long-term wetland protection and enhancement goals for which the land is being enrolled, maximizes the wetland functions and values of the enrollment area, and otherwise meet program purposes, NRCS may in accordance with applicable regulations and policy, prescribe and authorize grazing to occur. To the extent there are conservation practices for grazing-related infrastructure that NRCS determines are appropriate to support such grazing as prescribed by NRCS, States may allow, subject to all applicable regulations and policy, the installation of such practices on an ACEP-WRE. However, under ACEP-WRE, certain conservation practices for grazing-related infrastructure (including but not limited to, cross-fencing, livestock-watering facilities, and associated practices) are not authorized for ACEP-WRE financial assistance unless specifically approved (see 440-CPM-528-N-528.133E and also, for ACEP-WRE reservation of grazing rights enrollments see 440-CPM-528-Q-528.162C). Previously the approval to provide ACEP-WRE financial assistance for such practices could be granted by the State conservationist, however, for new enrollments in FY 2020, States must receive written authorization from the director of EPD. Any request for authorization along with supporting documentation must be submitted by the State
conservationist to the director of EPD and written authorization from the EPD director received, prior to the State executing a purchase agreement for an enrollment on which ACEP-WRE financial assistance funds for such conservation practices may be obligated or expended.

States may use other financial assistance programs for such conservation practices provided all eligibility requirements for such programs are met. NRCS financial assistance program assistance, through the Environmental Quality Incentives Program (EQIP) is limited to reserved grazing rights enrollments (440-CPM-530.402 E (1) ii.)

**FY 2020 Waivers and Special Enrollment Option Review and Determinations**

ACEP.—The timeline for program delivery in FY 2020 requires close coordination between the States (including EAB), eligible entities, landowners, and NHQ to ensure all required requests and supporting documentation for waivers and special enrollment options are submitted timely to allow for review and decisions. Provided below is a nonexhaustive list of the applicable policy sources, decision-maker authority, and implementation notes for some of the new or common waivers and special enrollment options under ACEP.

<table>
<thead>
<tr>
<th>Program Component</th>
<th>Waiver or Special Enrollment Option</th>
<th>Decision Maker</th>
<th>Policy Resources*</th>
<th>Implementation Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACEP-ALE</td>
<td>ACEP-ALE Program Agreements</td>
<td>Deputy Chief for Programs</td>
<td>440-CPM-528-E-528.42, F-528.50, and supplemental guidance</td>
<td>New ACEP-ALE agreement type. See ACEP policy manual, FY 2020 implementation guidance, and program agreement supplemental guidance for specific instruction.</td>
</tr>
<tr>
<td>ACEP-ALE</td>
<td>Buy-Produce-Sell transactions</td>
<td>State conservationist/EPD/Office of General Counsel</td>
<td>440-CPM-528-D-528.30E, 528.33D, 528.35A, and supplemental guidance</td>
<td>New ACEP-ALE transaction type, see ACEP interim rule and preamble for discussion. ACEP policy manual, FY 2020 implementation guidance, and B-P-S supplemental guidance for specific instruction.</td>
</tr>
<tr>
<td>ACEP-ALE</td>
<td>Impervious surface</td>
<td>State conservationist</td>
<td>440-CPM-528-G-528.60F</td>
<td>NHQ will conduct spot check of waiver decisions and documentation per existing policy.</td>
</tr>
<tr>
<td>ACEP-ALE</td>
<td>Grasslands of special environmental significance</td>
<td>State conservationist</td>
<td>440-CPM-528-D-528.33B</td>
<td>This is not a separate waiver; land must meet regulatory definition of GSS, must use the appropriate ALE agreement and deed provisions, and meet applicable cost-share requirements.</td>
</tr>
<tr>
<td>ACEP-ALE</td>
<td>Eligible entity cash contribution requirement waiver for projects of special significance</td>
<td>State conservationist</td>
<td>440-CPM-528-E-528.43D</td>
<td>Only available for unclosed parcels 2014 Farm Bill ALE-agreements. NHQ will conduct spot check of waiver decisions and documentation per existing policy.</td>
</tr>
<tr>
<td>Program Component</td>
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<td>Decision Maker</td>
<td>Policy Resources*</td>
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</tr>
<tr>
<td>ACEP-WRE</td>
<td>24-month ownership waiver</td>
<td>State conservationist or Chief</td>
<td>440-CPM-528-K-528.103</td>
<td>Follow ACEP policy to determine decision maker (STC or Chief); use worksheet provided as exhibit to the ACEP manual.</td>
</tr>
<tr>
<td>ACEP-WRE</td>
<td>CRP trees</td>
<td>State conservationist</td>
<td>440-CPM-F-528.528.106B(2)</td>
<td>This land is ineligible unless it meets the outlined criteria; land eligibility determination must be specifically documented in the official easement case file. See also section 528.131 for recommendations on including technical criteria in the WRCG.</td>
</tr>
<tr>
<td>ACEP-WRE</td>
<td>Adjacent lands</td>
<td>State conservationist and EPD director</td>
<td>440-CPM-528-K-528.1051and N-528.131</td>
<td>Adjacent lands may only be enrolled if certain criteria are met, individual determinations must be documented in the easement case file, technical criteria must be documented in the WRCG. State Conservationist has limited waiver authority.</td>
</tr>
<tr>
<td>ACEP-WRE</td>
<td>Grazing reserved rights – Exhibit E</td>
<td>EPD Director</td>
<td>440-CPM-528, Subpart Q</td>
<td>All Exhibit Es (including those previously approved under the 2014 Farm Bill or in FY 2019) must be submitted to and approved by EPD and prior to executing an ACEP-WRE enrollment agreement under the reservation of grazing rights option. Applicable easement compensation amount must be reduced by 25 percent.</td>
</tr>
<tr>
<td>ACEP</td>
<td>Other eligibility waivers or special provisions</td>
<td>State conservationist, EPD Director, Deputy Chief for Programs, or Chief – based on waiver</td>
<td>440-CPM-528 and FY 2020 guidance</td>
<td>Waivers or special enrollment options identified in ACEP policy (e.g., certain land eligibility determinations, 30-year contract review, use of ACEP-WRE FA funds for certain grazing infrastructure, ACEP-ALE templates, use of AWMA on ACEP-ALE), and FY 2020 supplemental guidance.</td>
</tr>
<tr>
<td>ACEP</td>
<td>AGI waivers</td>
<td>Pending release of FSA regulations, delegations of authority, and NRCS publication of guidance.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Policy sources identified above are key references but are not an exhaustive list.*

For consideration in FY 2020, timely submission of items that require NHQ review and approval in accordance with the target timeline provided in attachment B to this bulletin is critical. Waiver or special enrollment requests that are incomplete or are submitted to NHQ after such target dates, may not be reviewed for consideration of enrollment in FY 2020 and associated applications deferred for FY 2020. For ACEP applications and enrollments tracked in NEST (all ACEP-WRE) documentation of special enrollments and waiver approvals must be uploaded to the NEST must include the appropriate “Document Type” to individual NEST records. Guidance regarding managing documents for ACEP-ALE will be provided separately.
ACEP Preobligation Internal Control (IC) Reviews in FY 2020

ACEP.—Updated easement internal control (IC) policy and guidance for preobligation reviews in FY 2020 is forthcoming. States should not complete FY 2020 ACEP preobligation reviews until further guidance is published. For other IC actions, States should continue to follow policy available in NI 300-300, “Instruction and Guidance for State Implementation of Easement Internal Controls Prior to Obligation, Payment, and Closing.” Direct all IC-related questions to the IC support box (nrcs.internalcontrols@usda.gov).

ACEP Financial Management Guidance for FY 2020

ACEP.—All ACEP funds for new enrollments in FY 2020 must be obligated prior to the end of the fiscal year. The target dates provided with this bulletin are to ensure the necessary reviews, approvals, and actions can be completed in time to ensure FY 2020 agreements can be properly executed and funds obligated prior to the end of the fiscal year. States must also follow the separately provided FY 2020 easement financial management guidance regarding the streamlined business process for creating unique work breakdown structure (WBS) elements, fund reservations, and obligations.

As in previous fiscal years, the FY 2020 ACEP FA funds are allocated and tracked based on the primary funding component, either as ACEP-ALE, ACEP-ALE-GSS, or ACEP-WRE, and any applicable initiatives under those primary funding components. States may not move funds between ACEP-WRE and ACEP-ALE (including ALE-GSS). States may submit requests to transfer allocated funds within a primary component (for example, WRE General to WRE Bog Turtle) or between ACEP-ALE and ACEP-ALE-GSS, using the Allotment Planning and Management (APM) module in the Financial Management Modernization Initiative (FMMI).

ACEP funds must also be managed, obligated, and tracked separately based on the Farm Bill under which the enrollment agreement was originally executed. To enable the tracking of funds and reporting outcomes by individual Farm Bill, ACEP funds have been allocated in two different functional areas. States must ensure that the unique WBS elements contain the correct functional area. In the functional areas listed below, note the use of the number “8” rather than the letter “E” to denote that the funds are being used under the 2018 Farm Bill rather than the 2014 Farm Bill:

- Easement program enrollments from FY 2014 - FY 2018 (2014 Farm Bill) must use Functional Area NR26ACEPFA
- Easement program enrollments from FY 2019 - FY 2022 (2018 Farm Bill) must use Functional Area NR44ACP8FA

Specific scenarios:

- For existing 2014 Farm Bill enrollments (funds for the easement or 30-year contract are already obligated) for which a unique WBS element has already been created, States must ensure the shorthand code (SHC), which is derived from the WBS element, is updated as needed to use funds allocated in FY 2020, keeping with the functional area that was used when originally created. State program managers should work with financial resource specialists (FRS) to complete the template in ServiceNow, or other processes established by the FPAC BC, to update the SHC as necessary.
• For 2014 Farm Bill enrollments (funds for the easement or 30-year contract are already obligated) for which a unique WBS element was not created and new obligations are needed to complete acquisitions or restoration activities, States must request a unique WBS be created using the correct functional area (NR26ACEP) as described in separate guidance on FY 2020 easement financial management procedures.

A streamlined process for creating easement and water bank program fund reservations and obligations will be used in FY 2020 for new obligations associated with new enrollments in FY 2020. Specific guidance and detailed information on ACEP fund reservation and obligations for such FY 2020 enrollments will be provided in separate national bulletin.

Administration of Existing 2014 Farm Bill Enrollments and Easements

ACEP.—ACEP enrollment agreements (including ACEP-WRE agreements to purchase and ACEP-ALE cooperative and grant agreements), and easement deeds and deed terms, (including ACEP-WRE warranty easement deeds and 30-year contracts, and ACEP-ALE regulatory deed requirements and associated minimum deed terms) are Farm Bill specific. Therefore, enrollments under the 2014 Farm Bill must use the versions of the enrollment and easement documents approved for use under the 2014 Farm Bill. Similarly, enrollments under the 2018 Farm Bill must use the versions of the enrollments and easement documents approved for use under the 2018 Farm Bill.

2014 Farm Bill ACEP-WRE.—All unclosed easements associated with 2014 Farm Bill enrollments (APCEs and AECLUs executed prior to enactment of the 2018 Farm Bill), must continue to use the appropriate version of the ACEP-WRE warranty easement deeds (dated 10/2017) or 30-year contracts (dated 2/2015) approved for use under the 2014 Farm Bill.

2014 Farm Bill ACEP-ALE Agreements.—Existing, valid ACEP-ALE agreements entered into under the 2014 Farm Bill must continue to be administered under terms of the specific agreement and in accordance with the applicable regulations and policy in place prior to the enactment of the 2018 Farm Bill.

Under no circumstances may new attachments to fund new parcels be added to existing 2014 Farm Bill ACEP-ALE agreements. Substitution of parcels identified on 2014 Farm Bill agreements may continue to occur subject to the provisions of the specific ACEP-ALE agreement and must use the deed terms approved for use under the 2014 Farm Bill as described below.

An application for a newly identified substitute parcel to replace a funded parcel on an existing, valid 2014 Farm Bill ALE-agreement must be submitted on the new “Substitute Parcel Sheet for Entity Application for an ALE Agreement” (substitute parcel sheet) on the new Form NRCS-CPA-41SUB.

2014 Farm Bill ACEP-ALE Minimum Deed Terms.—All remaining unclosed parcels on existing ALE-agreements entered into under the 2014 Farm Bill must meet the applicable regulatory deed requirements in place prior to the enactment of the 2018 Farm Bill. For ACEP-ALE cooperative agreements, this includes the requirement that the ALE minimum deed terms approved for use under the 2014 Farm Bill are addressed, through attachment, incorporation, or template methods as described in the cooperative agreement. The appropriate version of the 2014 Farm Bill ALE minimum deed terms to be used for the remaining unclosed parcels is based
Attachment A

FY 2020 Easement Guidance – Administration of New and Prior Fiscal Year Easement Applications and Enrollments

on the terms of the individual ACEP-ALE agreement. States (including EAB) may continue to submit requests for EPD review of individual and template deeds associated with unclosed parcels on existing 2014 Farm Bill ALE-agreements. The review and approval of these deeds will be based on the regulatory deed requirements and minimum deed terms in place under the 2014 Farm Bill. ALE minimum deed terms published for enrollments under the 2018 Farm Bill may not be used for any enrollments under the 2014 Farm Bill.

2014 Farm Bill ACEP-ALE Template Deeds.—ACEP-ALE template deeds approved for use under the 2014 Farm Bill may continue to be used for unclosed parcels identified on existing ALE-agreements entered into under the 2014 Farm Bill.

States (including EAB) should notify eligible entities that these 2014 Farm Bill template deeds are not approved for use on parcels identified on ALE-agreements entered into under the 2018 Farm Bill due to statutory changes. States (including EAB) should coordinate with these entities to provide the information needed for the eligible entity to update their template deeds for use with 2018 Farm Bill ALE-agreements. State submission and EPD review of new or updated entity-specific template deeds for use under the 2018 Farm Bill will be conducted in accordance with the ACEP interim rule, policy, and FY 2020 guidance.

RCPP Agreements Entered into Under the 2014 Farm Bill

For RCPP partnership agreements entered into under the 2014 Farm Bill and administration of the associated easement enrollment agreements (including ALE-agreements, and ACEP-WRE or Healthy Forest Reserve Program (HFRP) purchase agreements) will follow applicable covered program policy (ACEP-ALE, ACEP-WRE, HFRP) in place during the fiscal year the easement enrollment agreement is executed as follows:

- Easement enrollment agreements (including ALE-agreements with eligible entities, and ACEP-WRE or HFRP Agreements to Purchase with landowners) and easements executed prior to the date of enactment of the 2018 Farm Bill must follow the regulations of the covered program that were in place at the time the original enrollment agreement or easement was executed and any additional policy or guidance applicable to the administration of enrollments under the 2014 Farm Bill.
- For FY 2020, States may select ACEP applications for new enrollment under existing, valid 2014 Farm Bill RCPP agreements only if allowable under the terms, conditions, approved deliverables, and period of performance of the individual RCPP agreement. Existing 2014 Farm Bill RCPP partnership agreements that allow for ACEP-WRE, ACEP-ALE, or HFRP through new easement enrollment agreements executed after the date of enactment of the 2018 Farm Bill must follow the updated regulations, revised policies, and applicable guidance that has been published and is applicable to administration of FY 2020 enrollments under the 2018 Farm Bill.
- For FY 2020, all ACEP applications received under existing RCPP agreements, must be entered into NEST through the “2014 Act New Program Activity” tracking inbox. Users must first select a NEST project number for the RCPP agreement when initially creating a new application record under that RCPP agreement. States should reference the document “1-30-19 - RCPP PROJECT LIST” available in the NEST Help tracking inbox to cross reference the “RCPP Project ID and Name” with the associated NEST project number. Contact the NEST support box if additional assistance is needed locating the RCPP project number.