

Fiscal Year (FY) 2022 Procedures for Administration of New and Prior Fiscal Year Easement Applications and Enrollments for Agricultural Conservation Easement Program (ACEP) and Other NRCS Easement Programs**Applicability of ACEP Regulations and Policy**

ACEP is implemented under the provisions of the regulation at 7 Code of Federal Regulations (CFR) Part 1468 and the policy and procedure provided in the ACEP manual at Title 440, Conservation Programs Manual (CPM), Part 528 and the Easement Common Provisions manual at Title 440-CPM-527. ACEP applications and enrollment agreements are subject to the above-referenced regulations and policy as well as all applicable national directives.

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 regulatory and policy requirements applicable to ACEP-WRE enrollments and FY 2019 ACEP enrollments that existed prior to the effective date of publication of the ACEP interim rule (December 30, 2019) vary based on the status of the enrollment and must be administered as instructed in the applicable regulation, policy, and 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 2022 but is currently operating under a continuing resolution. States are now in receipt of their full year allocation of ACEP funds and at this time have the authority to:

- Use existing allocations to undertake the activities identified in the FY 2022 State Initial Advisory Full Year Allocation letter.
- Make announcements of fund availability and any FY 2022 application consideration cutoff dates (e.g. batching periods).
- Conduct the activities needed to process and administer applications and enter into new enrollment agreements in FY 2022 subject to the requirements identified in this NB.
- Conduct all program implementation activities on new and existing enrollments, in accordance with the applicable ACEP policy and regulation.

The agency has also received its full apportionment of repealed easement program funds (i.e., Farm and Ranch Land Protection Program (FRPP), Grassland Reserve Program (GRP), and Wetland Reserve Program (WRP)), which will be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 2022 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 request additional funds or adjustments to allocations in accordance with applicable allocation guidance. All funds allocated in FY 2022 must be obligated prior to the end of the fiscal year. National Headquarters (NHQ) will sweep any unobligated funds 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.

Establishment and Announcement of FY 2022 Ranking Criteria and Application Deadlines

While ACEP applications are accepted on a continuous basis, States may determine application cutoff dates to establish batching periods during which complete and eligible applications, received prior to the cutoff date, are considered for funding. States may establish one or more application cutoff dates for FY 2022. At least 30 days prior to each cutoff date, States must publish an announcement of the cutoff date on the State ACEP webpage.

In establishing application cutoff dates, States must assess their workload and allow sufficient time to complete all required steps prior to the end of the fiscal year, including but not limited to due diligence, eligibility determinations, ranking, planning, State- and national-level internal control reviews, contracting, and actions required by administrative support teams within the Farm Production and Conservation Business Center (FPAC-BC). Attachment B to this bulletin provides the FY 2022 timeline of target dates for submission and completion of required activities, subject to any additional or different submittal deadlines established by FPAC-BC for the services under their purviews.

The State Conservationist, in consultation with the State Technical Committee, develops the ranking criteria to prioritize and select eligible applications that address priority resource concerns, and programmatic and national priorities. States must finalize their FY 2022 ranking criteria in accordance with the National Instruction (NI) 440-310, NB 440-21-30, and applicable program policy (see 440-CPM-528, Subpart E for ACEP-ALE and Subpart L for ACEP- WRE). Prior to a given application cutoff date, the ranking criteria that will be used to rank and select applications considered under that application batching period must be posted to the State ACEP webpage. The requirement that such criteria be posted 30 days prior to the end of the application cutoff date is not applicable for FY 2022 (see NI 440-310 for additional guidance on posting ranking criteria).

States should make potential program participants aware of ACEP opportunities and any FY 2022 application cutoff dates. States should work with their State public affairs specialists on outreach and announcements. States must conduct outreach to ensure that historically underserved landowners are made aware of program opportunities and application deadlines.

Processing Applications

ACEP Applications.— A properly completed and executed application is one that is submitted on the appropriate forms, accompanied by all required supporting documentation, and signed by all required applicants. Only properly completed and executed applications submitted by the State-identified application cutoff dates or submission deadlines will be considered for funding in FY 2022. States may accept corrections to otherwise substantively complete and executed applications submitted by the State-identified deadlines, so long as they do so consistently for all applicants.

Complete and properly executed applications received prior to the publication of this guidance may be considered for funding in FY 2022 and submission of a new application in FY 2022 is not required unless:

- The information provided in the previously submitted application is no longer valid,
- An updated application would eliminate the need for a 24-month ownership waiver for ACEP-WRE, or
- Otherwise required by NRCS at the State level.

For applications to be considered for funding in FY 2022, the appropriate application forms must be used as follows:

ACEP-ALE:

- An “Entity Application for an ALE Agreement” (entity application) on Form NRCS-CPA-41 (dated 02/2020 or later) for eligible entity applicants interested in participating under an ACEP-ALE Program

Agreement to be executed in FY 2022.

- A “Parcel Sheet for Entity Application for an ALE Agreement” (parcel sheet) on Form NRCS-CPA-41A (dated 02/2020 or later) must be submitted for each parcel to be considered for funding in FY 2022.
- For Buy-Protect-Sell transactions only: A “Buy-Protect-Sell Transaction Supplement to the Parcel Sheet for Entity Application for an ALE Agreement” on Form NRCS-CPA-41A-BPS Supplement (dated 04/2021 or later).

NOTE: See 440-CPM-528-E-528.42 for ACEP-ALE application requirements. See NI 300-306.2 for additional guidance with respect to applications for ACEP-ALE Program Agreements and Parcel Contracts, and NI 300-308 for additional guidance with respect to applications for ACEP-ALE Buy-Protect-Sell transactions. An entity application (Form NRCS-CPA-41) is not required if the eligible entity is only applying to add new Parcel Contracts to an existing ACEP-ALE Program Agreement, in this scenario, only the NRCS-CPA-41A for the parcel is required.

ACEP-WRE.—

- Private and Tribal landowners interested in participating in ACEP-WRE must submit a complete and properly executed “Conservation Program Application” using the version of Form NRCS-CPA-1200 that is dated 03/2019 or later (see forthcoming FY 2022 guidance on use of updated versions of the NRCS-CPA-1200 and see 440-CPM-528-K-528.102 for ACEP-WRE application requirements).
- During FY 2022, it is highly recommended that States require all applicants being considered for funding in FY 2022 that originally applied in FY 2019 or prior using an NRCS-CPA-1200 dated prior to 03/2019 to submit an updated NRCS-CPA-1200 using the version released in FY 2022 (dated 10/2021 or later).

Easement Business Tool Data Entry and Reporting

ACEP.—Once a properly completed ACEP application is received, States must enter the new application in the appropriate business tool. All ACEP applications should be entered into within 10 business days of receipt and must be entered in the appropriate business tool before the fiscal year-end shutdown of such tool, including ineligible, cancelled, and deferred applications.

ACEP-WRE.—States must enter ACEP-WRE applications into the National Easement Staging Tool (NEST). Existing unfunded ACEP-WRE applications entered in NEST with a status of preapproved, eligible, pending, ineligible, or draft are rolled over from FY 2021 and remain available for consideration. States must determine the landowner’s continued interest and update the application statuses in NEST accordingly. Updating the application status in NEST to identify cancelled or ineligible applications aids in managing workload related to planning, assessment, and ranking. 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 2022, new parcels may only be enrolled using ACEP-ALE Parcel Contracts associated with an active, valid ACEP-ALE Program Agreement executed in FY 2019 or later. New ACEP-ALE Program Agreements executed in FY 2022 must use the ACEP-ALE Program Agreement dated 04/2021 or later (see NI 300-306). No new ACEP-ALE Cooperative or Grant Agreements may be executed in FY 2022, however, substitute parcels may be enrolled under an existing, valid ACEP-ALE Cooperative or Grant Agreement, or ACEP-ALE Parcel Contact subject to the terms of the individual agreement or contract (see sections below for additional information on ALE-Agreements). The easement business tool that must be used to enter and track the ALE-agreement and associated parcel information is based on the ALE-agreement type, as follows:

- FY 2020 and later ACEP-ALE Program Agreements and Parcel Contracts.—States will use ProTracts and must enter the applications into ProTracts as they are received. Guidance on the use of ProTracts for ACEP-ALE Program Agreements is provided separately. ACEP-ALE specific ProTracts training is located on the EPD Sharepoint at https://usdagcc.sharepoint.com/sites/nrcs_programs/epd/tng/mini. State easement program managers must work with their States ProTracts Role Grantor to ensure appropriate NRCS staff have the necessary roles in ProTracts.
- FY 2019 ACEP-ALE Cooperative or Grant Agreements (2018 Farm Bill).—States must use NEST to keep parcel statuses up to date. In FY 2022, no new parcels may be added to such agreements; however, substitute parcels may be selected for funding pursuant to the terms of the individual agreements. No new ACEP-ALE Cooperative or Grant Agreements may be executed in FY 2022.
- 2014 Farm Bill ACEP-ALE Cooperative or Grant Agreements (non-RCPP) originally executed in FYs 2014 – 2018 that are expired, must have their records updated in NEST by December 31, 2021, to reflect that the ALE-agreement is concluded, and that all remaining parcels are expired. All remaining funds must be deobligated from the agreement in FMFI.
- For 2014 Farm Bill RCPP-ACEP-ALE Program Agreements and Parcel Contracts.—States will use NEST and must enter the applications into NEST as they are received (see Attachment to NB 300-20-24 for NEST screenshots and instruction).

Assessment and Ranking

All eligible ACEP applications must be planned in Conservation Desktop (CD) and must be assessed and ranked using the Conservation Assessment Ranking Tool (CART) (see NI 440-310, “NRCS Program Ranking through CART,” and supplemental CART guidance and training materials).

For FY 2022, States must ensure the applicable ACEP ranking criteria identified in NI 440-310 and in applicable program regulations and policy are appropriately addressed in the ranking factors, ranking pools, categories, or other prioritization considerations developed in CART (for ACEP-ALE see 7 CFR Sections 1468.22 and 440-CPM-528-E, or for ACEP-WRE see 7 CFR Sections 1468.32 and 440-CPM-528-L). For FY 2022, the national ranking templates and associated practice lists applicable to ACEP are:

- ACEP-ALE (general) National Ranking Template
- ACEP-ALE-GSS National Ranking Template
- ACEP-WRE (general) National Ranking Template
- ACEP-WRE for Reservation of Grazing Rights National Ranking Template

For FY 2022, eligible applications must be ranked in CART using the State’s updated ranking factors. The ranking pool applicability details report must be downloaded from CART and saved in the appropriate easement casefile and business tool for all ACEP applications. Additionally, for all ranked ACEP-WRE applications, the resultant ranking score must be entered into NEST.

Planning Easement Practices During Assessment.—In FY 2022, the “L Type” Long-Term Easement practices, in Conservation Practice Data Entry System (CPDES), CD, and CART are included in the program cost lists in CD and the cost-share type and rate are displayed on the system generated NRCS-CPA-1155 “Schedule of Operations.” These easement practices must be planned in CD and selected in CART during the assessment process as ‘seeking funding’ (see NB 300-20-29 for original guidance on updated easement planning procedures; see NB 440-21-34 for easement lesson plans on workflow in CD and associated business tools; see NB 440-22-2 for FY 2022 cost list information; and associated FY 2022 national directives).

In CART, the ‘acquisition practices’ are supporting or facilitating practices for the ‘long-term protection of land

practices.’ The ‘acquisition practices’ with point shape, will have a single planned instance on one of the planned land units (PLUs) where the easement will be located. The ‘acquisition practices’ with polygon shape, have a practice planned on every PLU which will be merged during the agreement item development to have a single instance of the practice on the NRCS-CPA-1155. Easement practice and costs list guidance for FY 2022 will be published separately and include the list of the easement practices, practice shape, practice unit, cost type, payment rate, and whether the planned practice is primary or supporting.

All applications selected for funding in FY 2022 must have an NRCS-CPA-1155 deployed through the “Cost List Agreement” or “Payment Schedule Agreement” module in CD. ACEP FA funds may only be provided for specified practices, the list of which are included in the national ranking templates in CART (see NI 440-310). States should only include in their ranking pools the conservation practices approved for restoration and all easement acquisition practices.

Needed conservation practices that are not eligible for FA (for noncontract items) or management activities may be included in the conservation plan by not selecting ‘seeking funding’ for such practices and such practices will appear on the contract or the plan associated with the contract items.

Eligibility Determinations

ACEP

States must follow all applicable landowner eligibility, land eligibility, and for ACEP-ALE, entity eligibility requirements in 7 CFR part 1400, 7 CFR part 1468, 440-CPM-528, and associated FY 2022 guidance documents.

Landowner Eligibility.—All applicants’ eligibility documentation must be current for FY 2022 and all current landowners of record must be determined eligible for FY 2022 prior to execution of any enrollment agreements.

Adjusted Gross Income Determination Requirements and Statuses.—Prior to execution of enrollment agreements, and the obligation or payment of funds, all landowners, including the required members of landowner legal-entities, must submit their Form CCC-941, “Average AGI Certification and Consent to Disclosure of Tax Information” and associated paperwork to the Farm Service Agency (FSA) and have an eligible adjusted gross income (AGI) subsidiary status for FY 2022 that is either:

1. An IRS-Determined status of:
 - Compliant-Producer
 - Compliant less than 3 years
 - Mismatch Verified
2. A Farm Service Agency (FSA) State Office/SED Determination of:
 - Compliant-Review
 - Mismatch Verified
3. An AGI-exempt business type or an exemption as an Indian Tribe.
4. For ACEP-ALE only, the AGI statuses of “Filed CCC-941” or “Compliant – FSA Determined” are compliant statuses for the purposes of executing an enrollment agreement and obligating funds in FY 2022. However, this flexibility should be used sparingly as these statuses are not compliant for the purposes of making payments. Prior to issuing payments all payment eligibility determinations must be concluded, and applicable commensurate reductions applied.

If FSA determines that a person or legal entity, including members of a legal entity, exceeds the AGI limit, the persons or legal entities applying for enrollment may submit to NRCS a written request for a waiver of the AGI limitation. The AGI limitation may be waived on a case-by-case basis if NRCS determines that the land is otherwise eligible for enrollment in ACEP and that such land is environmentally sensitive land of special

significance that will be protected as a result of the AGI waiver. The request, review, and processing of the AGI waiver must be conducted in accordance with the regulations, policy, and procedures provided in 7 CFR Part 1400, 440-CPM-528-D-528.35 (for ACEP-ALE), 440-CPM-528-K-528.103 (for ACEP-WRE), and NI 440-314. The AGI limitation waiver is not a waiver of the requirement to file Form CCC-941, but rather is a waiver available to those persons or legal entities who exceed the AGI limit or whose payment would be subject to a AGI-related commensurate reduction, as determined by FSA.

Farm Operating Plan Determination and Statuses.—For FY 2022, each landowner of record must file with FSA their “Farm Operating Plan” on the appropriate form CCC-902, including all required information, and have the appropriate status documented in the FSA business file system (see NB 300-21-7 and subsequently issued guidance regarding CCC-902 requirements for FY 2022).

Land Eligibility.—States must confirm land eligibility determinations as of FY 2022 and land eligibility determinations completed in a prior fiscal year must be updated and documented accordingly. Land eligibility documents must include site specific investigations and maps that identify eligible acres by category and adjacent lands. 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 2022.

ACEP Enrollment Types

ACEP.—ACEP enrollment options under the 2018 Farm Bill and available in FY 2022 are as follows:

- **ACEP-ALE.**—Agricultural land easements that are perpetual or maximum duration allowed under State law (see 440-CPM-528-D-528.30E). ACEP-ALE cost-share funds may be provided for the purchase of the agricultural land easement subject to a standard ALE transaction or a buy-protect-sell transaction (see NI 300-308 for guidance on buy-protect-sell transactions).
- **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-WRE, Reservation of Grazing Rights Option.—Prior to execution of any new enrollment agreements under this option, States must have an Exhibit E to the ACEP-WRE warranty easement deed that has been approved by the Easement Programs Division (EPD) and is appropriate for the wetland ecosystems on the subject property (see 440-CPM-528.162 and associated national directives). For FY 2022, States may only use an Exhibit E approved by EPD in FY 2020 or later.

States interested in offering this enrollment option that do not have a currently-approved Exhibit E (FY 2020 or later) applicable to the enrollment area must submit their draft Exhibit E to EPD review and approval through the Program Activity Management System (PAMS) available at https://usdagcc.sharepoint.com/sites/nrcs_programs/epd/pams/SitePages/GeneralReqManagment.aspx.

The EPD-approved Exhibit E and the documentation of the EPD approval must be uploaded to NEST for each FY 2022 ACEP-WRE reservation of grazing rights enrollment.

Consistent with prior fiscal years, for FY 2022 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 valuation and compensation policy, specifications, and scopes of work to be used for ACEP are provided in the ACEP manual, the Easement Common Provisions manual, exhibits to these manuals, and other national directives (For ACEP see 440-CPM-527, Subparts E and F, and supplemental valuation guidance issued in FY 2022. For ACEP-ALE see also 440-CPM-528-F-528.53; For ACEP-WRE see also 440-CPM-528-M-528.122, NI 300-303, NB 440-21-19).

ACEP-WRE.—Prior to executing enrollment agreements in FY 2022, States must receive from EPD written approval of their FY 2022 easement compensation package, including the geographic area rate caps (GARCs) that will be used in FY 2022 and as applicable, the areawide market analysis (AWMA) report (see 440-CPM-528.225B for the ACEP-WRE AWMA Statement of Work (SOW), see NI 300-303 for easement compensation package submission requirements, and NB 300-21-19 for requirements specific to the AWMA SOW dated May 2021). Easement compensation packages must be submitted through PAMS available at https://usdagcc.sharepoint.com/sites/nrcs_programs/epd/pams/SitePages/GeneralReqManagement.aspx.

In addition to the applicable policy and national directives, States must follow the guidance provided by EPD in the State’s individual FY 2022 easement compensation package approval documentation, including that related to the use, applicability, and limitations of AWMA and the circumstances in which the fair market value must be determined by an individual appraisal.

For projects using individual appraisals for enrollment, it is critical to ensure both the appraiser and the appraisal technical reviewer are engaged at the same time through the appropriate procurement mechanisms. States may contact NRCS national appraiser at nrcs.nationalappraisers@usda.gov for guidance on finding qualified appraisers. States that work through the FPAC-BC Acquisitions Division (AD) to procure their appraisals should not rely on FPAC-BC AD to identify qualified local appraisers.

ACEP-ALE Non-Federal Share Requirements

ALE Program Agreements executed FY 2020 and later.—For each parcel, the Federal and non-Federal share must be documented on the appropriate form NRCS-CPA-230 “Statement to Confirm Matching Funds as follows:

- NRCS-CPA-230E, for all General ALE parcel contracts
- NRCS-CPA-230F, for all ACEP-ALE-GSS parcel contracts.
- NRCS-CPA-230G, for Buy-Protect-Sell transaction parcel contracts only.

The NRCS-CPA-230E and NRCS-CPA-230F have been updated to incorporate the changes made in the ACEP final rule. The updated NRCS-CPA-230E and NRCS-CPA-230F (dated 10/2021) are being released with this national bulletin. States should make eligible entities aware that these updated versions of the NRCS-CPA-230 forms are available for use as follows:

- For payment requests submitted in FY 2022 for parcel contracts associated with an ALE Program Agreement executed in FY 2020 or later, any version of the appropriate NRCS-CPA-230 (dated 02/2020, 10/2021, or later) is acceptable.
- For ALE Program Agreements executed in FY 2022, the most current version of the NRCS-CPA-230s (dated 10/2021 or later) must be provided as part of the “Sample Parcel Contract” documents attached as Exhibit 3 to the ALE Program Agreement.

ALE-Agreements executed in FY 2019.—Eligible entities with ALE-agreements originally executed in FY 2019, with remaining, unclosed parcels selected for funding may on an individual parcel basis, continue to meet the 2014 Farm Bill eligible entity contribution requirements as described in the ALE-agreement or may elect to

meet the 2018 Farm Bill contribution requirements as published in the ACEP regulation and policy manual.

For eligible entities that elect to meet the 2018 Farm Bill contribution requirements for one or more remaining unclosed parcels on an FY 2019 ALE-agreement, an 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 dated 10/2021 or later) and the revised SF-270 supplement dated 02/2020 or later.
- 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 Contract for affected parcels.

The Federal share that may be 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).

Agreement and Deed Requirements for FY 2022 Enrollments

ACEP.—NRCS will provide applicants a blank copy of the applicable required enrollment 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 selected for funding in FY 2022 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 2022 ACEP-WRE enrollments, are as follows:

- **Easements.**—The “Agreement for the Purchase of Conservation Easement” (APCE) (NRCS-LTP-31, dated 10/2021), has been updated and is posted to eForms.
- **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 2022 will expire February 15, 2024, with the optional extension date of February 15, 2025.

FY 2022 ACEP-WRE easement enrollments will use the appropriate version of the ACEP-WRE Warranty Easement Deed (dated 10/17 or later) 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 2022, the “Warranty Easement Deed with Reservation of Grazing Rights” (Form NRCS-LTP-33). For ACEP-WRE 30-year contract enrollments in FY 2022, 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 Agreement Requirements

ACEP-ALE Program Agreement and Parcel Contracts.—ACEP-ALE Program Agreements and associated parcel contracts will be used for all new enrollments in FY 2022 (see NI 300-306 and 440-CPM-528).

- **Execution of Parcel Contracts associated with ACEP-ALE Program Agreements.**—States may enroll eligible parcels through the execution of ACEP-ALE parcel contracts associated with a fully executed ACEP-ALE Program Agreement. All ACEP-ALE Program Agreements may have associated parcel contracts for standard ALE transactions. Only ACEP-ALE Program Agreement executed using the version dated 04/2021 or later may have associated ACEP-ALE parcel contracts for either standard ALE transactions or ALE Buy-Protect-Sell transactions. All ACEP-ALE parcel contracts are subject to the terms of the ACEP-ALE Program Agreement with which they are associated. Any eligible entity may submit an entity application (NRCS-CPA-41) to enter in new ACEP-ALE Program Agreement to avail themselves of the updated terms contained in the 04/2021 version.
- **New ACEP-ALE Program Agreements (Executed in FY 2022).**—Eligible entities may submit and NRCS may process at any time an NRCS-CPA-41, “Entity Application for an Agricultural Land Easement Agreement”. All ACEP-ALE Program Agreements executed in FY 2022, must use the most current version of the ACEP-ALE Program Agreement available at the time of execution (dated 04/2021 or later). Prior to obtaining eligible entity signatures and prior to NRCS execution of a new ACEP-ALE Program Agreement, States must first submit the draft, unexecuted ACEP-ALE Program Agreement to EPD for processing and must receive written approval from NHQ (see NI 300-306.7(B)). States must submit the draft, unexecuted ACEP-ALE Program Agreement and all attachments, and the associated NRCS-CPA-41, to EPD for processing to NRCS.ProgramAgreements@usda.gov.

All ACEP-ALE Program Agreements and associated Parcel Contracts must be entered into and managed by NRCS through ProTracts and required documents uploaded to the Document Management System (DMS). Guidance on the processing and managing of ACEP-ALE Program Agreements and associated Parcel Contracts in ProTracts is available on the EPD SharePoint site in the [ACEP-ALE Program Agreement Training](#) folder. Further national guidance specific to the use of ProTracts and DMS for ACEP-ALE Program Agreements and Parcel Contracts will be issued as needed.

States may submit questions about ACEP-ALE Program Agreements and Parcel Contracts to NRCS.ProgramAgreements@usda.gov.

ACEP-ALE Cooperative or Grant Agreements under the 2018 Farm Bill.—New ACEP-ALE Cooperative or Grant Agreements may not be executed in FY 2022. As of FY 2022, only ACEP-ALE Cooperative or Grant Agreements originally executed in FY 2019 remain valid. No new parcels may be added to these agreements; however, substitute parcels may be selected for funding and identified in the agreement attachment A pursuant to the terms of the individual agreement and in accordance with the requirements set forth in 440-CPM-528.51 and NI 300-302.

NOTE: FPAC-BC Grants and Agreements Division (GAD) is responsible for processing amendments, modifications, and other actions related to administration of ACEP-ALE Cooperative or Grant Agreements. ACEP-ALE Program Agreement and associated Parcel Contracts are not submitted to or processed by FPAC-BC GAD.

ACEP-ALE Deed Terms and Requirements

ACEP-ALE Deed Terms and Requirements for Parcels Enrolled in FY 2022.—The ACEP-ALE regulatory deed requirements that must be addressed are published in the ACEP regulation (7 CFR Section 1468.25) and the ACEP policy manual (440-CPM-528-G).

For Parcel Contracts subject to the noncertified eligible entity provisions, either the most current version of the “Minimum Deed Terms for the Protection of Agricultural Use” (ALE minimum deed terms addendum) or an EPD-approved entity-specific deed template must be attached to the Parcel Contract at the time it is originally executed.

Eligible entities that request an entity-specific deed template must have the template deed reviewed first by the State and then reviewed and approved by EPD prior to use in FY 2022 in accordance with 440-CPM-528-G-528.61. States must submit the draft deed template to EPD using the Deed Review Tool (DRT) (see DRT User Guide for instructions at https://usdagcc.sharepoint.com/sites/nrcs_programs/epd/DRT/SitePages/Home.aspx). EPD review will include ensuring that the template deed appropriately addresses the applicable ACEP regulatory deed requirements and minimum deed terms in place at the time the EPD review is completed.

ACEP-ALE Deed Terms and Requirements for FY 2019 ALE-Agreements.—FY 2019 was a Farm Bill transition year, and as a result ALE-agreements originally executed in FY 2019 may have no-cost amendments or modifications executed to authorize the use of certain provisions of the ACEP rule and policy in effect as of the date the amendment or modification is executed and 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 have 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 current version of the minimum deed terms available at the time the agreement is amended (ALE minimum deed terms addendum dated February 2020 or later), or
3. Use an NRCS NHQ-approved entity-specific deed template (approved FY 2020 or later).

Prior to closing an agricultural land easement using option 2 or 3 above, the 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 later) or NRCS NHQ-approved entity-specific deed template (approved FY 2020 or later). Such deed terms addendum or deed template may only be used for parcels that are unclosed as of the date an ACEP-ALE Cooperative Agreement amendment to include such attachments is fully executed by all required parties.

FY 2019 ACEP-ALE Grant Agreements.—Certified eligible entities with ACEP-ALE grant agreements originally executed in FY 2019, may request a no-cost amendment to modify the agreement to require remaining, unclosed parcels be subject to the most current provisions and regulatory deed requirements set forth in the ACEP regulation (7 CFR Section 1468.25) in place at the time the amendment is executed. 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 is 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.

ACEP-ALE Entity Certification

An eligible entity may submit a request for certification at any time. NRCS will review and approve eligible entity requests for certification as set forth in the ACEP regulation (7 CFR Section 1468.26) and ACEP policy manual (440 CPM-528-H). All certification applicants will be notified in writing by NHQ upon final review of the certification submission.

EPD will notify States individually of the certified eligible entities in their States for FY 2022. Certified eligible entities that select the ‘certified eligible entity’ option on an individual parcel contract must acquire the ACEP-ALE easement subject to the certified eligible entity provisions of the ACEP-ALE Program Agreement.

Required Easement Plans

ACEP-WRE.— All ACEP-WRE enrollments must have a wetland reserve plan of operations (WRPO) as part of an easement casefile created in CD and completed in accordance with regulation, policy, and applicable FY 2021 planning guidance (see 7 CFR Sections 1468.3, 1468.36, and 1468.38, and 440-CPM-528, Subparts N and P).

ACEP-ALE.—If the development of an agricultural land easement plan, including any component plans, is 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 (dated February 2020 or later) must be included. NRCS will not develop any agricultural land easement plans on FY 2022 enrollments, except for required highly erodible land (HEL) conservation plans on highly erodible cropland. (see 7 CFR Part 1468, Subpart B, 7 CFR Section 1468.3, and 440-CPM-528-G-528.63)

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.

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

ACEP-WRE.—As a result of changes in the 2018 Farm Bill, the ACEP regulation and policy was 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 7 CFR Part Sections 1468.3 and 1468.38 and 440-CPM-528-N).

Beginning in FY 2020, States were directed to develop the required and recommended elements of their State-specific wetland restoration criteria and guidelines (WRCG) document as set forth in 440 CPM-528-N-528.131(B)(2) and (3). The WRCG is a living document that may require refinement or change over time as resource conditions and program priorities evolve. States should review their WRCG and update it as needed to ensure it includes:

1. The appropriate historic wetland types and associated habitat descriptions and associated information in accordance with 440 CPM-528-N-528.131(B)(2)(i).

2. The descriptions, technical considerations and criteria, and associated documentation requirements for alternative communities in accordance with 440 CPM-582-N-528.131(B)(2)(ii) and 528.132. At a minimum this must be completed prior to:
 - a. The execution of an enrollment agreement for any application on which the preliminary WRPO includes the restoration (including establishment) of an alternative community; or
 - b. 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 descriptions, technical considerations and criteria used to determine the eligibility, limits, and extents of acres that may be enrolled under the adjacent land eligibility criteria, and associated documentation requirements in accordance with 440-CPM-528-K-528.105(I) and 528.131(B). This portion of the WRCG and any associated State Conservationist or EPD Director authorizations must be completed and documented prior to the execution of an enrollment agreement that includes acres determined eligible based on the adjacent land eligibility criteria.

4. As prioritized for inclusion at the State-level, the ‘recommended’ elements (as described in 440-CPM-528-K.528.131(B)(3)) that will provide the greatest utility in supporting and aiding objective, sound, and consistent decision-making in the technical aspects of program delivery.

Note: All required elements of the WRCG (items 1-3 above), whether newly added or updated in FY 2022, must be completed prior to finalizing assessment and ranking of applications in FY 2022. Ranked applications that require adjustment prior to enrollment based on the technical criteria and guidelines documented in the WRCG may need to be reranked depending on the nature of the change.

Planned Practices and Preliminary Obligation of FA Funds for ACEP-WRE

ACEP-WRE.—For ACEP-WRE, all easement practices and conservation practices needed for acquisition, restoration, and management of an application tentatively selected for funding must be included during the assessment phase in CART and in the planning in CD. However, ACEP-WRE FA funds may only be provided for the practices specified in the list associated with the applicable national ranking templates in CART.

The preliminary WRPO, including a conservation plan map and schedule of operations in CD, must be developed prior to executing the enrollment agreement and prior to obligating funds for easement acquisition and the associated acquisition-related costs and restoration costs. States must use the “Supplement to the Enrollment Agreement for the Preliminary Obligation of Acquisition-Related and Restoration Costs” (enrollment agreement supplement) dated December 2020 or later (see 440-CPM-528, Exhibit 528.224J). The enrollment agreement supplement must be submitted at the same time as the enrollment agreement to ensure obligation of the associated acquisition-related costs and restoration costs at the time of enrollment.

Use of ACEP FA Funds for Grazing Infrastructure on ACEP-WRE Enrollments.—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 NRCS determines that certain conservation practices for grazing-related infrastructure (including but not limited to, cross-fencing, livestock-watering facilities, and associated practices) 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 (see 440-CPM-528- N-528.133E and also, for ACEP-WRE reservation of grazing rights enrollments see 440-CPM- 528-Q-528.162C). However, the extent to which NRCS may provide ACEP-WRE FA funds for such practices is limited as follows:

1. All enrollments in ACEP-WRE: ACEP-WRE FA funds may be used to install wildlife-friendly boundary fences to control the access of livestock to the easement or 30-year contract area subject to the requirements identified in 440-CPM-528-N-528.133(D).
2. Enrollments in General ACEP-WRE in FY 2022: Use of ACEP-WRE FA funds for grazing infrastructure practices within the easement or 30-year contract area is not authorized unless a request for authorization along with supporting documentation is 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 FA funds for such conservation practices may be obligated or expended (see 440-CPM-528-N-528.133(E)). Other NRCS financial assistance programs, such as Environmental Quality Incentives Program (EQIP) cannot be used on a general ACEP-WRE enrollment.
3. Enrollments in ACEP-WRE Reservation of Grazing Rights in FY 2022: Use of ACEP-WRE FA funds for grazing infrastructure practices is not authorized because the landowners retain certain grazing rights in the Warranty Easement Deed. Landowner may seek financial assistance for the installation of grazing infrastructure practices on the easement area through EQIP (see 440-CPM-530-R-530.402 E(ii)). Practices must be consistent with the ACEP-WRE Warranty Easement Deed's Exhibit E, the WRPO, and the NRCS-approved grazing management plan.

NOTE: For enrollments in ACEP-WRE, EWRP, and WRP prior to FY 2020, States must continue to follow the guidance originally provided in NB 440-20-29.

ACEP Preobligation Internal Control (IC) Reviews in FY 2022

ACEP.—States must complete FY 2022 ACEP IC reviews in compliance with this bulletin, NI 300-300, NB 300-21-8, and forthcoming updated easement IC policy and guidance for preobligation or prepayment reviews published in FY 2022. PAMS will be utilized for all IC review documentation and communication in FY 2022.

Direct all IC-related questions to the IC support box (nrcs.internalcontrols@usda.gov).

ACEP Financial Management Guidance for FY 2022

ACEP.— States must follow the separately provided FY 2022 easement financial management guidance regarding the streamlined business processes for creating unique work breakdown structure (WBS) elements, funds reservations, and fund obligations, including the preliminary obligation of acquisition-related costs and restoration costs.

As in previous fiscal years, the FY 2022 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 ACEP-ALE-GSS). States may submit requests to transfer allocated funds within a primary component (for example, WRE General to WRE MRBI) 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 2022, 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 2022 easement financial management procedures.

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 the 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-ALE Agreements.—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.

2014 Farm Bill ACEP-ALE Minimum Deed Terms.—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 ACEP-ALE Cooperative 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. Template deeds approved for used under the 2014 Farm Bill are not approved for use on parcels identified on ALE-agreements entered into under the 2018 Farm Bill.

RCPP Agreements Entered into Under the 2014 Farm Bill

For RCPP partnership agreements entered into under the 2014 Farm Bill, 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.

For FY 2022, all ACEP applications received under existing 2014 Farm Bill RCPP agreements, must be entered

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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.