

**Fiscal Year (FY) 2023 Procedures for Administration of Agricultural Conservation Easement Program  
(ACEP) Applications and Enrollments funded under the Inflation Reduction Act (IRA)****Applicability of ACEP Regulations and Policy**

ACEP is implemented under the provisions of the regulation in 7 CFR 1468 and the policy and procedure provided by the ACEP manual in 440 CPM 528 and the Easement Common Provisions manual in 440 CPM 527. ACEP applications and enrollment agreements are subject to the above-referenced regulations and policy as well as all applicable national directives.

The Inflation Reduction Act P.L. 117-169 passed by the 117<sup>th</sup> United States Congress authorized the use of ACEP funds for easements or interests in land that will most reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with land eligible for the program. The IRA funds used for ACEP must be used in agreements implemented, executed, closed, and paid prior to September 30, 2031.

NB 300-23-3 and all references therein will be used for IRA ACEP implementation unless indicated by this national bulletin.

**Establishment and Announcement of FY 2023 IRA ACEP National Sign-Up and Ranking Criteria**

In FY 2023, IRA funding for ACEP will be administered as a national sign-up implemented at the individual state level. States will determine eligible applications based on national level IRA target conditions and priority areas. States will use the IRA national ranking criteria and ranking pools. Applications eligible for IRA ACEP will be ranked by the states. The Easement Program Division (EPD) will aggregate the rankings and NRCS leadership will determine the applications selected for funding in FY 2023.

Because the IRA ACEP is a national sign-up and will be competed nationally, states will not create their own ranking pools in the business tools but will use a national pool for program administration. States will manage the applications received and be responsible to administer the program for selected applications.

While IRA ACEP applications are accepted on a continuous basis, NRCS will announce one application cutoff date to establish a batching period during which only complete and eligible applications are considered for funding. States must publicly announce, upon the publication of this national bulletin, the availability of national IRA ACEP funds on the state ACEP webpage and notify potential applicants in the state of the available funding opportunity prior to the application cutoff date.

National Headquarters will establish 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 of this bulletin provides the FY 2023 timeline of target dates for submission and completion of required activities and is subject to any changes by FPAC-BC for the services under their purview.

IRA is a new opportunity for the customers we serve and to serve new customers. States are encouraged to make potential program participants aware of the program sign-up and application cutoff dates by working with their 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.

States with IRA ACEP applications must email the appropriate ACEP national program manager a confirmation of their IRA ACEP application rankings by April 24, 2023. Upon receiving the confirmation, the national program manager will provide NRCS leadership with the summary and ranking of all IRA ACEP applications so

funding can be determined.

### **Processing Applications**

**ACEP Applications.**— All valid ACEP applications that meet target conditions and are in priority areas are to be considered for IRA funding regardless of when they were received or whether they were explicitly applying for IRA funding at the time of application. IRA ACEP applications must be entered into the appropriate business tool for IRA purposes. The same application must also be entered into the appropriate tool separately for Farm Bill ACEP purposes. This means States may have to enter some applications twice. IRA ACEP and Farm Bill ACEP require application entry into the business tools for funding consideration under both authorities. The double entry is required for accounting of IRA application activity and for specific system functionality developed to accommodate IRA applications in a condensed timeframe. As IRA functionality in business tools is further developed, repeated entry may not be required.

### **Easement Business Tool Data Entry and Reporting**

**ACEP.**—States must enter fully executed ACEP applications in the appropriate business tool within 10 business days of receipt and manage them using that business tool or its successor. In addition, states must complete the workflow for each application, including ineligible, cancelled, and deferred applications, in the appropriate business tool before the fiscal year-end shutdown of such tool. All existing applications that were entered into the business tool prior to this published guidance should be assessed and acted upon as necessary; applications that are no longer valid or being considered for enrollment should be canceled so they are not rolled over to the next fiscal year. All eligible applications must be ranked during the batching period in which they are considered for funding. In Conservation Desktop (CD), all eligible applications tentatively selected for funding must be identified in the Select Application Tool (SAT) as “preapproved” by EPD.

**ACEP-WRE.**—States must enter IRA ACEP-WRE applications into the National Easement Staging Tool (NEST) as they are received. IRA ACEP-WRE applications considered for IRA funding must select the IRA ACEP-WRE selection at the start of NEST data entry. Selection of IRA funding will prompt users to enter additional data elements for IRA applications. Easement case file creation for IRA applications in CD is expected to be available with the March 22 functionality (Angus) release.

**ACEP-ALE.**— States must enter IRA ACEP-ALE applications into ProTracts as they are received. IRA ACEP-ALE will be indicated in ProTracts applications by using a button on the ACEP-ALE application data entry page next to the IRA yes/no radio button. ‘Yes’ selections will indicate IRA ACEP-ALE funding while ‘No’ selections will indicate regular 2018 Farm Bill funding. NI 300-306 provides guidance on the use of ProTracts for ACEP-ALE program agreements. Please see NB 300-23-3 for any further application instructions.

### **Assessment and Ranking**

All eligible ACEP applications must be planned in CD and must be assessed and ranked using the Conservation Assessment Ranking Tool (CART) (see NI 440-310, “NRCS Program Ranking through Conservation Assessment Ranking Tool (CART),” and supplemental CART guidance and training materials). Accordingly, all ACEP applications for IRA must be planned in CD, assessed, and ranked as this is a national sign-up in FY 2023. States with an approved workload prioritization tool (WPT) will not be able to use the WPT for IRA ACEP applications. The IRA ACEP eligible applications must be ranked in CART using the national ranking pools. 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.

**Eligibility Determinations****ACEP**

States must follow all applicable landowner eligibility, land eligibility, and, for ACEP-ALE, entity eligibility requirements in 7 CFR 1400, 7 CFR 1468, 440 CPM 528, and associated FY 2023-specific directives. Use of current ACEP Farm Bill funds is acceptable for due diligence activities prior to enrollment. At the point of funding selection by NHQ, IRA-specific ACEP funds will be provided to the states for all required enrollment and acquisition application costs.

**Landowner Eligibility.**—All applicants' eligibility documentation must be current for FY 2023 and all current landowners of record must be determined eligible for FY 2023 prior to execution of any enrollment agreements.

**Adjusted Gross Income (AGI) Determination Requirements and Statuses.**—There is no change in ACEP AGI income for IRA ACEP. Please see NB 330-23-3.

**Land Eligibility.**—IRA ACEP land eligibility will be determined using ACEP program policy. IRA funding for ACEP is only available for FY 2023 applications in the priority layers identified for the ACEP components below. Geospatial information for the priority layers can be found in a sub-folder of the Priority Data Layers SharePoint Folder at [Priority Data Layers Team - A\\_FY2022\\_Update\\_Climate\\_Equity\\_Urban\\_Analysis\\_Deliverables - All Documents \(sharepoint.com\)](#) and Easement Web Viewer at [ArcGIS Enterprise - Easements IRA Targeting Data Web Application \(usda.gov\)](#).

**ACEP-WRE Priority Areas.**—The two IRA ACEP-WRE priority areas identify regions with soils high in organic carbon. These soils have a high nutrient content and available water capacity, have the highest soil carbon sequestration potential, and are a priority for wetland restoration as a climate strategy for greenhouse gas mitigation. The FY 2023 IRA statute prioritizes land that will most reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with land eligible for the program. The initial allocation of IRA funds must prioritize areas that will restore and protect permanent and persistent vegetative cover with the most immediate need. Focusing ACEP-WRE in areas with soils high in organic carbon, including Histosols, histic epipedon, wet Mollisols, and umbric epipedons, will optimize the soil carbon sequestration potential and prevent increased greenhouse gas emissions through the maintenance of existing noncultivated areas, the restoration of previously cultivated areas to perennial vegetative cover, and the restoration of the natural hydrology to keep the soils saturated and anaerobic.

**ACEP-ALE Priority Areas.**—The IRA ACEP-ALE priority areas identify funding targets for grassland conversion to non-grassland and agricultural use. The IRA ACEP-ALE priority area was determined for FY 2023 based on the NRCS Working Lands for Wildlife framework for the grasslands biome. The FY 2023 IRA statute prioritizes land that will most reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with land eligible for the program. The initial allocation of IRA funds must prioritize areas with the most immediate need for protection. The framework for the grasslands biome prioritizes critically important grasslands that can help sequester carbon and prevent increased greenhouse gas emissions by protecting the grassland from cropland conversion.

**ACEP Enrollment Types**

**ACEP.**—ACEP enrollment options under the 2018 Farm Bill and available in FY 2023 are as follows:

**ACEP-ALE.**—Agricultural land easements that are perpetual or the maximum duration allowed under state law (see 440 CPM § 528.30(E)). ACEP-ALE cost-share funds may be provided for the purchase of the agricultural land easement subject to a standard ALE transaction or a pre-closing transfer buy-protect-sell transaction (see NI

300-308 for guidance on pre-closing transfer buy-protect-sell transactions).

**ACEP-WRE.**—Wetland reserve easements that are perpetual, 30-years, or the 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.**— IRA ACEP-WRE Reservation of Grazing Rights Option as an enrollment option for FY 2023 must be approved by EPD. Please contact the ACEP-WRE program manager for instructions on submitting.

#### **Agreement and Deed Requirements for FY 2023 Enrollments**

**ACEP.**—IRA ACEP will use the agreements and deed requirements identified in NB 300-23-3, unless otherwise specified with the project selection.

#### **ACEP Financial Management Guidance for FY 2023**

**ACEP.**— States must follow FY 2023 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 (see NB 300-22-25, NB 300-22-39, and forthcoming FY 2023 easement financial management guidance).

IRA ACEP funds in FY 2023 will use the attached WBS elements provided in this bulletin. IRA ACEP financial assistance funds will be provided to states by NHQ once initial IRA ACEP funding selections are made. IRA ACEP financial assistance funds will be based on the estimated costs provided in the appropriate business tools, so states should ensure that all estimated costs are populated and based on actual financial assistance needs. IRA ACEP technical assistance funds will be provided in separate communications to states. As noted above, ACEP Farm Bill funds can be used for due diligence activities prior to the selection of applications for IRA funding.