

Part 528 – Agricultural Conservation Easement Program

Subpart A – ACEP General Information

528.0 Purpose

A. This part provides general information about the Agricultural Conservation Easement Program (ACEP), the sources of ACEP authority, and roles and responsibilities.

B. ACEP consolidates the purposes of the Farm and Ranch Lands Protection Program (FRPP), the Grassland Reserve Program (GRP), and the Wetlands Reserve Program (WRP) into one easement program with two components. The two easement enrollment components of ACEP are agricultural land easements (ACEP-ALE) and the wetland reserve easements (ACEP-WRE). This part is organized by:

- (i) ACEP provisions that affect the entire program, found in subparts A through C and R through U.
- (ii) ACEP-ALE provisions that affect only the agricultural land easement component, found in subparts D through J.
- (iii) ACEP-WRE provisions that affect only the wetland reserve easement component, found in subparts K through Q.

C. The purposes of ACEP are to restore, protect, and enhance wetlands on eligible land; to protect the agricultural viability, and related conservation values of eligible land by limiting nonagricultural uses of that land; and protect grazing uses and related conservation values by restoring and conserving eligible land.

D. Under ACEP-ALE, NRCS provides cost-share assistance to eligible entities to purchase agricultural land easements from eligible landowners to protect the agricultural use, including grazing uses, and related conservation values on eligible lands. Under ACEP-WRE, NRCS protects wetlands by purchasing directly from eligible landowners a reserved interest in eligible land or entering into 30-year contracts on acreage owned by Indian Tribes, in each case providing for the restoration, enhancement and protection of wetlands and associated habitats.

E. The ACEP repeals FRPP, GRP, and WRP but maintains the purposes of these predecessor easement programs. Easements and 30-year contracts previously enrolled under FRPP, GRP, and WRP, as well as easements previously enrolled in the previously repealed Farmland Protection Program (FPP) and the Emergency Wetlands Reserve Program (EWRP), are considered enrolled in ACEP. Existing easements, 30-year contracts, and agreements remain valid and enforceable, and subject to the legal framework in place at the time of enrollment, except that the long-term stewardship and management of these easements and 30-year contract lands, and ACEP funding made available for implementation, will be in accordance with the applicable provisions of this part.

528.01 Background

A. General Administration

NRCS administers ACEP using the funds, authorities, and facilities of the Commodity Credit Corporation (CCC). NRCS may, as appropriate, receive advice from the State Technical Committee and from other Federal or State agencies, conservation districts, or other organizations on program administration. No determination or recommendation by these agencies or

(440-528-M, First Ed., Amend. 95, March 2015)

organizations compels NRCS to take any action that NRCS determines will not serve ACEP purposes.

B. Applicability

The ACEP is available to all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

C. Waivers to National Policy

The policy set forth in this manual must be followed. In limited and unusual circumstances, the Chief of NRCS or Deputy Chief for Programs of NRCS, as delegated, may waive policy in this part. A State Conservationist may seek a waiver of this policy by sending a written request for a waiver to the Deputy Chief for Programs as follows:

- (i) The request must provide adequate rationale for the policy waiver. The rationale should demonstrate that approving the waiver would result in a conservation easement with equal or greater conservation value, is consistent with the purposes and objectives of the policy to be waived, and the policy waiver is needed to adapt to either a specific aspect of the landowner's situation, an eligible entity's program, or the unique characteristics of the parcel or proposed easement area.
- (ii) Requested actions must be consistent with applicable statutes and regulations.
- (iii) Policy waivers, unless otherwise identified in the waiver itself, will expire at the end of the fiscal year in which they are approved.
- (iv) Policy waivers granted by the Deputy Chief will not be for broad requests. Policy waivers will only be granted to address requests for individual transactions or cooperative agreements, as applicable. Approved waivers must not be extended to transactions or cooperative agreements that were not specifically identified in the request and approval.
- (v) A copy of the approved policy waiver or reference to its location will be maintained in the easement case file to which it applies and uploaded to the National Easement Staging Tool (NEST) upon receipt.

528.02 Public Access to Data

A. Release of Personal Information

Information about ACEP applicants is generally not released to the public because individual privacy rights must be protected. The Freedom of Information Act (FOIA), Privacy Act, section 1244 of the Food Security Act of 1985, and section 1619 of the Food, Conservation, and Energy Act of 2008 (the 2008 Act), 7 U.S.C. Section 8791, require the Government to withhold certain information related to agricultural producers and others who participate in NRCS programs. Refer to Title 120, General Manual (GM), Part 408, Subpart C, "Freedom of Information Act and Privacy Act," for NRCS policy regarding confidentiality of information.

B. ACEP Applicant Information

Aggregate or statistical information about ACEP applications may be described in news releases, Web sites, and other tools used to inform the public.

C. ACEP Landowner Information

Title 440 – Conservation Programs Manual

After NRCS has made payment for an easement, additional information is available for release. The following information about ACEP–funded transactions may be released through a FOIA request:

- (i) Names of landowners of funded easements
- (ii) Address information, limited to State, city, county, or any combination of these. (Additional restrictions about the release of address information apply to some corporate and nonprofit business types. Consult 120-GM, Part 408, for more guidance.)
- (iii) ACEP payment amounts
- (iv) Other information as determined by the NRCS State or national FOIA officer in accordance with applicable statutes.

D. Geospatial Information

- (1) NRCS is prohibited from disclosing geospatial information it maintains about agricultural land or operations that was collected in association with program participation. However, conservation easement boundary information may be made public as such information pertains to interests held by the United States and is not merely information provided by an agricultural producer or owner.
- (2) The general public may access NRCS geospatial data at the following Web address: <http://ncgcweb.ftw.nrcs.usda.gov/easements/imagery/>. Available data includes the program name, easement boundaries, centroids, and State or county boundaries.