

Overview of 2018 Farm Bill Changes to ACEP-ALE and RCPP

Agricultural Conservation Easement Program – Agricultural Land Easements Provisions

2014 Farm Bill	Changes in 2018 Farm Bill
Funding. Funded at \$400 m, \$425 m, \$450 m, \$500 m, \$250 m for 2014-2018	Funded at \$450 m per year for 2019-2023
Establishment and purpose. ACEP provides financial and technical assistance through two types of easements: agricultural land easements that limit nonagricultural uses on productive farmland or grasslands; and wetland reserve easements that protect and restore wetlands.	Adds language to limit nonagricultural uses that negatively affect agricultural uses and conservation values. For grasslands, the purpose is amended from protecting grasslands by restoring <i>and</i> conserving land to restoring <i>or</i> conserving land.
Definitions. Five terms are defined under ACEP: agricultural land easement, eligible entity, eligible land, program, and wetland reserve easement (omitted in this document). Agricultural land easement is defined as an easement that protects the natural resources and the agricultural nature of the land while maintaining production. Eligible entity is defined as a state or local government, Indian tribe, or conservation organization. Eligible land for agricultural land easements includes land with a pending easement offer; with prime, unique, or productive soils; that contains historical or archaeological resources; that would protect grazing uses; that furthers a similar state or local policy; that is cropland, rangeland, grassland, area historically dominated by grassland, pastureland, or nonindustrial private forest land.	Amends the definition of agricultural land easement by removing the requirement that landowners farm according to an approved agricultural easement plan. Amends the definition of eligible land to land subject to a buy-protect-sell transaction. Adds a definition for monitoring report, a report prepared by the easement holder that accurately documents compliance with terms and conditions of the agricultural land easement. Adds a definition for buy-protect-sell transactions.
Agricultural land easements. ACEP funds are provided for the purchase of agricultural land easements by eligible entities and for technical	Amends availability of technical assistance for conservation plans and buy-protect-sell transactions.

<p>assistance pursuant to an agricultural land easement plan.</p>	
<p>Eligible entities are required to provide contributions equivalent to the federal share, or at least 50% of the federal share, if the entity includes contributions from the private landowner. Grasslands of special environmental significance are allowed up to 75% of the fair market for the federal share. USDA is authorized to waive any portion of the eligible entity cash contribution requirement for projects of special significance, subject to an increase of private landowner donation equal to the amount of the waiver if donation is voluntary.</p>	<p>Amends the cash match requirement from eligible entities, so that the match to the 50% federal share may come from cash resources, a charitable donation by the landowner, costs associated with securing a deed to the agricultural land easement, including the cost of appraisal, survey, inspection and title, and other costs as determined by the Secretary.</p> <p>For grasslands of special environmental significance, the federal share may be up to 75%, and the remainder may be made up of the same sources as above.</p>
<p>The evaluation and ranking criteria for agricultural land easement applications is required to maximize the benefit of federal investment under ACEP.</p>	<p>Adds provisions allowing for the adjustment of established criteria to account for geographic differences, as long as these adjustments meet program purposes and continue to maximize the benefits of federal investments.</p>
	<p>Adds a new provision allowing USDA to prioritize applications that maintain agricultural viability.</p>
<p>ACEP agricultural land easement enrollment is through eligible entities that enter into cooperative agreements of three to five years with USDA. The entities acquire easements and hold, monitor, manage, and enforce the easements.</p>	
<p>Entities may use their own terms and conditions, as long as these are consistent with the purposes of the program, permit effective enforcement, include a right of enforcement for the Secretary, include an impervious surface limit, and include an agricultural land easement plan.</p>	<p>Right of enforcement is amended to stipulate that it does not extend to a right of inspection unless the easement holder does not provide monitoring reports in a timely manner, or the Secretary has a reasonable and articulable belief of violation.</p> <p>The requirement for an agricultural land easement plan is replaced with the requirement for a conservation plan for highly erodible cropland.</p>
	<p>A section on additional permitted terms and conditions includes provisions intended to keep the land under farmer or rancher ownership, and to allow for subsurface mineral development under certain conditions (limited and localized impact; does not harm ag use, conservation</p>

	values, or topography; includes a subsurface mineral development plan with remediation assurances).
USDA certifies eligible entities through a certification process and according to a criterion.	<p>Specifies that eligible entities may use their own terms and conditions, as long as these are consistent with the purposes of the program.</p> <p>Adds two new methods for achieving certification: having accreditation by the Land Trust Accreditation Commission and 10 easements under a federal program; or being a state department of agriculture or other state agency and 10 easements under a federal program.</p>
USDA, if requested, may provide technical assistance for compliance with the terms and conditions of the easements and to implement an agricultural land easement plan.	Removes language relating to technical assistance for implementation of an agricultural land easement plan.
Administration. Certain land is ineligible for ACEP easements, including land owned by the federal government, land owned by a state, land subject to an easement or deed restriction, or land where an ACEP easement would be undermined due to on- and off-site conditions (e.g., hazardous substances, proposed or existing rights of way, infrastructure development, or adjacent land use).	
USDA may subordinate, exchange, modify, or terminate any ACEP easement if it is in the federal government’s interest, will address a compelling public need where there is no alternative or further the administration of ACEP, and will result in a comparable conservation value and greater or equivalent economic value to the United States.	<p>Subordination: If Secretary determines that it increases or has limited negative effect on conservation values, minimally affects acreage, and is in the public interest or furthers the practical administration of the program.</p> <p>Exchange & Modification: If Secretary determines that no reasonable alternative exists, effect on the interest is avoided or minimized, results in equal or increased conservation values, results in equal or greater economic value to government, consistent with original intent of easement, consistent with purposes of program, and is in the public interest or furthers the practical administration of the program.</p> <p>Termination: If Secretary determines that it is in the interest of the government, U.S. will be compensated for full-market value, termination costs, and damages; termination addresses a</p>

	<p>compelling public need with no alternative even with avoidance and minimization, and furthers practical administration of the program; 90-day notice to House and Senate required; does not impact qualification for 170(h). All 4: consent from landowner and eligible entity if applicable</p>
<p>A CRP contract may be terminated or modified if the land is transferred into ACEP.</p>	<p>Limits the CRP transfer option to enrollment as an ACEP wetland reserve easement. Adds a new provision allowing land with an ACEP agricultural land easement to participate in CRP.</p>
	<p>AGI waiver available for projects of special environmental significance (applies to the entire Conservation Title).</p>

Regional Conservation Partnership Program Provisions

2014 Farm Bill	Changes in 2018 Farm Bill
<p>Establishment and purpose. Establishes the Regional Conservation Partnership Program (RCPP). Combines the purposes of four repealed conservation programs to further conservation, restoration, and sustainability on a regional or watershed scale, and encourage partners to cooperate with producers in meeting or avoiding regulatory requirements and implementing projects.</p>	<p>Expands the establishment of RCPP to include alternative funding arrangements or grant agreements with eligible partners. Additional purposes of RCPP are included to encourage the flexible and streamlined delivery of conservation assistance through partnership agreements and to engage greater conservation outcomes and benefits for producers than would otherwise be achieved.</p>
<p>Definitions. Six terms are defined under RCPP: covered program, eligible activity, eligible land, eligible partner, partnership agreement, and program.</p> <p>Covered program is defined as ACEP, EQIP, CSP, and the Healthy Forests Reserve Program (HFRP).</p> <p>Eligible activity is defined as activities for water quality and quantity improvement, drought mitigation, flood prevention, water retention, air quality improvement, habitat conservation, erosion control and sediment reduction, forest restoration, and others defined by USDA.</p> <p>Eligible land is defined as land on which agricultural commodities, livestock, or forest-related products are produced, including cropland, grassland, rangeland, pastureland, nonindustrial private forest land, and other incidental land.</p> <p>Eligible partner is defined as producer groups, state or local governments, Indian tribes, farmer cooperatives, water district, irrigation district, rural water district or association, municipal water or waste treatment entity, institutes of higher education, and other nongovernmental entity or organizations with a history of working with producers on conservation projects.</p>	<p>The Conservation Reserve Program and Watershed Protection and Flood Prevention Act (PL-566) are added to the definition of covered program.</p> <p>Eligible activity is redefined as a “practice, activity, agreement, easement, or related conservation measure that is available under the statutory authority for a covered program.”</p> <p>Eligible land is redefined as “any agricultural on nonindustrial private forest land or associated land on which the Secretary determines an eligible activity would help achieve conservation benefits.”</p> <p>Acequia, land trusts, and conservation districts are added to the definition of eligible partner.</p>

	<p>A definition for “program contract” is added, to mean a contract between the Secretary and a producer but is not a contract under a covered program.</p>
<p>Regional conservation partnerships. Under RCPP, USDA enters into partnership agreements with eligible partners for a period not to exceed five years with a possible one-year extension.</p>	<p>Partnership agreements may be five years or longer if the Secretary determines that a longer period is needed to meet program objectives. Agreements may be renewed for an additional period not to exceed five years. Partnership agreements or renewals may each be extended one time for a maximum of one year.</p>
<p>Partners define the scope of RCPP projects, conduct outreach, act on behalf of producers to apply for assistance, leverage financial and technical assistance, conduct assessments, and report results. Partners must provide a “significant portion” of the overall cost of the project.</p>	<p>The conservation benefits to be achieved are added to the definition of the scope of projects.</p> <p>The assessment is clarified to be of the progress made in achieving the conservation benefit, including in a quantified form, and other outcomes of the project (such as economic and social outcomes).</p> <p>The contribution of an eligible partner is clarified to include direct funding, in-kind support, or some combination. Costs expended after the approval of the application but before the signing of the agreement are also considered contributions.</p>
	<p>A section on Duties of the Secretary is inserted, including: creating a timeline for duties (entering into program contracts with producers, providing financial assistance, and providing payments to partners through alternate funding arrangements or grant agreements), identifying a program coordinator in each state, providing guidance for partners to conduct assessments, and providing reports to partners and the Secretary.</p>
<p>RCPP applications are competitive, and the selection criteria are publicly available. Priority is given to applications that assist producers in meeting or avoiding the need for regulation, include a large percentage of producers in the project area, provide significant resource leverage, deliver a high percentage of applied conservation to priorities or conservation</p>	<p>The Secretary is directed to develop a simplified application. Adds priority requirements for building new partnerships to include a diversity of stakeholders, delivering a high percentage of applied conservation, and implementing the project with existing watershed, habitat, or other restoration plans.</p>

<p>initiatives, or provide innovative conservation methods and delivery.</p>	
	<p>Expedited and noncompetitive renewals may be granted by the Secretary to continue to implement or expand the project, as long as it has met or exceeded the objectives of the project.</p>
	<p>The Adjusted Gross Income limitation does not apply to eligible partners.</p>
<p>Assistance to producers. Directs USDA to enter into contracts to provide technical and financial assistance to producers participating in projects with eligible partners, or producers within a project area or critical conservation area not working through an eligible partner. Program rules, requirements, and payments are to be consistent with the covered programs (ACEP, EQIP, CSP, and HFRP). Provides USDA the authority to adjust the rules of a covered program, including operational guidance and requirements in order to simplify the application and evaluation process. Prohibits the adjustment of statutory requirements for a covered program, including appeals, payment limits, conservation compliance, and prior irrigation history. Authorizes no more than 20 alternative funding arrangements with multi-state water agencies or authorities.</p>	<p>The Secretary is directed to establish a program contract specific to RCPP (rather than using covered program applications). Eligible partners may submit application bundles on behalf of multiple producers; these application bundles may be given priority.</p>
<p>Five-year payments may be made for conversion to dryland farming and nutrient management. AGI limits may be waived to fulfill the objectives of the program.</p>	
	<p>Funding through alternative funding arrangements and grant agreements is defined. The Secretary may enter into 15 of these each fiscal year. Partners may carry out eligible activities in agreement with producers. Examples of activities eligible partners may carry out are given, including infrastructure investments that would benefit multiple producers, projects that use innovative approaches to leveraging funds such as performance-based payments and environmental markets, or other projects as determined by the Secretary. Partners using</p>

	alternative funding arrangements or grant agreements must submit an annual report.
<p>Funding. Authorized to receive \$100 million in mandatory funding annually for FY2014-FY2018 to remain available until expended. The program utilizes a percentage of other conservation program funding (ACEP, EQIP, CSP, and HFRP). Annually reserves 7% of covered program funds and acres until April 1 each year, after which time uncommitted funds are returned to the covered program. Allocates 25% for a state competition, 40% for a national competition, and 35% for critical conservation areas. Administrative expenses of eligible partners are not covered.</p>	<p>Funded at \$300 million annually with no percentage coming from covered programs. 50% of funds go to state or multistate projects, and 50% go to critical conservation areas. The Secretary may advance “reasonable amounts of funding for not longer than 90 days” for technical assistance including providing outreach and education and establishing baseline metrics to support the project assessment. The Secretary is required to make public the amount of technical assistance under the terms of the partnership agreement, and to create strategies to encourage third-party technical service provider participation.</p>
<p>Administration. USDA is required to make information on selected projects publicly available and report to Congress by December 31, 2014 (and every two years thereafter) on the status of projects funded.</p>	<p>Adds a requirement to report on the progress made towards achieving the conservation benefits as defined and other outcomes to the report to Congress. Directs the Secretary and partners to conduct outreach to historically underserved producers (beginning, veteran, limited resource, and socially disadvantaged farmers and ranchers).</p>
	Requires the Secretary to issue regulations to carry out the program.
<p>Critical conservation areas. USDA is required to use 35% of the funds and acres available for partnership agreements in no more than eight critical conservation areas that expire after five years, subject to redesignation. Areas are selected based on multi-state areas with significant agricultural production, existing agreement or plan in place, water quality concerns, water quantity concerns, or subject to regulatory requirements. Partner agreements and producer contracts are administered according to the applicable covered program and, where possible, complement existing water quality and quantity strategies. Allows the use of authorities granted under the Watershed Protection and Flood Prevention program in critical conservation areas.</p>	<p>Adds a definition of a critical conservation area as a geographical area that contains a critical conservation condition. Adds a definition of a priority resource concern as a natural resource concern in the critical conservation area that may be addressed through water quality improvement, water quantity improvement, wildlife habitat restoration, or other natural resource improvements as determined by the Secretary. CCA projects must address at least one priority resource concern. The Secretary shall identify these priority resource concerns as well as conservation goals and outcomes sufficient to demonstrate progress. CCAs must be reviewed once every five years and can only be withdrawn with Secretarial determination.</p>