

# ACEP-ALE LAND ELIGIBILITY CHECKLIST

NRCS staff determine if the land you are offering can meet program requirements. They make this determination using the information you supply on the application forms together with supporting materials. In addition, an onsite visit by NRCS staff is required for verification of some of the criteria.

This checklist can help you determine if the parcel offered meets the program eligibility criteria. We list key requirements, suggest documents to help NRCS verify the parcel's qualifications, and provide some examples to prepare you to apply. Be sure to check with your state ACEP-ALE program manager in case the state has more specific requirements.

Citations to the [Conservation Programs Manual](#) are provided in each section for reference.

## Agricultural land



This criterion is only relevant in instances where the land is not obviously in active agricultural use. If evidence of agricultural use is requested, provide proof of enrollment in the state's current use assessment program or consistency with the definition of a farm set forth by the state's program to purchase agricultural conservation easements and/or the state's agricultural use tax assessment program. Another option is to visit the property and verify with photos that it is in active agricultural use.



See: [M.G.L. c. 61A](#)



Reference: Conservation Programs Manual Part 528.33 D(3).

## Meets one of two required ownership categories:

### Privately-owned agricultural land.



Provide a copy of the property deed(s) or evidence that the land is in the process of being purchased, which may take the form of a signed option-to-purchase agreement, a letter of intent to sell the property, or similar documentation.



See: [Sample Property Deed](#)

**Agricultural land held in ownership by an Indian Tribe or individual Tribal member and lands held in trust by a native corporation, Tribe, or the Bureau of Indian Affairs (BIA). When the land is held in trust by the BIA, the landowner will contact the BIA to determine whether the Tribe must receive any necessary clearances from the BIA to be considered eligible.**



Provide a copy of the deed(s) or an executed purchase agreement for all the land being offered.



Provide contracts or clearances from BIA, if applicable.



Reference: Conservation Programs Manual Part 528.33 A and D(4) (defines "Tribal lands").

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## Ability to meet one of four required land eligibility categories:

The parcel is comprised of at least 50% prime, unique, statewide or locally important soil. **This category is the most frequently used, though other categories should be considered, if they would provide the best fit for the property.**



Provide a Farmland Classification Report from the NRCS Web Soil Survey. In some states, “locally important” soil designations may not be listed in the Web Soil Survey. Check the State NRCS Home page or contact the State Soil Scientist for more information if that category is not shown in the map legend.



See: [Farmland Classification Report](#)

See: [How to Use the Web Soil Survey](#)

The parcel contains historical or archaeological resources on a farm or ranch. If you select this category, be aware that the ALE deed must 1) the protect the historical or archaeological resources 2) identify at least one grantee or a third party with designated monitoring responsibilities that has experience in managing, monitoring, and enforcing historical or archaeological resources.



Provide a formal listing from the National Register of Historic Places (NRHP); provide a formal listing from a State or Tribal register of historic places; provide a formal determination that your land would be eligible for listing in the NRHP by the State historic preservation officer (SHPO), Tribal historic preservation officer (THPO), or the Keeper of the National Register; or provide documentation that the land is included in the SHPO or THPO’s inventory—a list of significant sites and structures identified by experts that have not been fully investigated—with written justification as to why it is eligible for the NRHP.



See: [National Register of Historic Places Listing](#)

See: [State Historic Preservation Offices](#)

Enrolling the land would protect grazing uses and related grassland conservation values by restoring or conserving eligible land. The ALE deed must address the protection of those grazing uses or grassland values. Selecting this land eligibility category may prevent more intensive agriculture uses from being allowed on the land in the future, since the grassland use is written into the deed and enforceable.



Provide maps or other evidence of the following uses: grassland, rangeland, pastureland, land that contains forbs, or shrubland that is grazed. Alternately, provide evidence that the land was historically dominated by one of these uses. Document whether the land provides (or could provide) habitat for threatened or endangered species and/or protects sensitive or declining native prairie or grassland types by contacting the state NRCS office or state natural resources agency.



If you intend to apply for additional cost-share assistance for land that has grasslands of special environmental significance (GSS), you must select this land eligibility category. Be prepared to provide additional evidence to establish the special environmental significance.

Protecting the land will further a State or local policy consistent with the purposes of ACEP-ALE. The ALE deed must address the ACEP-ALE purposes that are being supported by a specific State or local policy.



Provide the state or local policy. Document how the policy is consistent with the purposes of ACEP-ALE and how preservation of the parcel is consistent with that policy.



See: [Vermont Housing and Conservation Board’s policy](#)



Reference: Conservation Programs Manual Part 528.33 B.

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## The proposed easement area is in cropland, rangeland, grassland, historic grassland, pastureland, and/or nonindustrial private forest land.

 Provide a map identifying the mix of land uses and their approximate acreage and proportions covering the proposed easement area. If you do not have GIS capability to generate a map, this information can be calculated from the Web Soil Survey or another open source mapping program, listed on a farm conservation plan, or found on an FSA Common Land Unit (CLU) producer map. The protected parcel may **only** contain forest land on up to two-thirds of the proposed easement area. A waiver can be requested for acreage that NRCS determines is a sugar bush operation that contributes to the economic viability of the operation.



See: [Parcel map](#)

See: [How to Use the Web Soil Survey](#)



Reference: Conservation Programs Manual Part 528.33 C.

## Evidence that one of two types of eligible transactions is in progress:

### Eligible land must be subject to a written pending offer by the eligible entity to purchase the easement.



Provide a signed purchase agreement, a signed option-to-purchase agreement, a letter of intent to sell, an offer letter, or other similar documentation.



See: [Sample easement written offer](#)

### Eligible land is subject to a buy-protect-sell transaction. The eligible entity must show that the land is owned by or in the process of being purchased by the eligible entity. Land cannot be owned by an NGO whose purpose is to protect agricultural use and related conservation values, unless the land is owned on a transitional basis as part of buy-protect-sell transaction.



Provide the deed, signed purchase agreement, or a statement from the existing landowner that they are unwilling or unable to sell an easement themselves.



Reference: Conservation Programs Manual Part 528.33 D.

## Proof that the parcel is unencumbered by protection(s) similar to ALE



Provide a copy of the deed and most recent title report or title commitment, if available at the time of application, and rationale as to why an existing deed restriction is acceptable, such as providing additional protections for a different resource type. No portion of the parcel may be subject to an easement or deed restriction which provides similar protection as would be provided by ACEP-ALE. NRCS will refer to the below Title Exception Guide to determine whether a parcel is unencumbered. Review the guide to prepare.



See: [Sample preliminary title report](#)

See: [Title Exception Guide for NRCS Conservation Easement Programs](#)

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## Free from unacceptable exceptions to clear title



Review the property deed to identify potential conflicting encumbrances such as mechanic's liens and mortgages. Provide rationale as to why exceptions to clear title should be deemed acceptable. NRCS will refer to the below Title Exception Guide to determine whether a parcel is unencumbered. Review the guide to prepare.



See: [Property Deed](#)

See: [Title Exception Guide for NRCS Conservation Easement Programs](#)

## Acceptable on-site and off-site conditions



NRCS will visit the property to determine whether there are unacceptable conditions present. Key concerns are risk of hazardous materials, permitted or existing rights-of-way such as utility transmission lines, infrastructure development, or adjacent land uses where the purposes of the program would be undermined. Any identified issues will need to be rectified prior to closing. NRCS will refer to the below checklists during this inspection. Review them to prepare for this visit.



See: [Hazardous Materials Field Inspection Checklist](#)

See: [Hazardous Materials Landowner Interview](#)

See: [Landowner Disclosure Worksheet](#)

## Access to the parcel



Attach map showing access from a public road or evidence of insurable, unconditional, and transferable legal right of recorded access. The entire parcel must be accessible from a public road or there is a recorded right of way for the term of the easement.



See: [Sample road access map](#)

## Impervious surfaces not exceeding the allowed threshold



Provide a map identifying the total acreage and the square footage or acreage of the existing and proposed impervious surfaces and building envelopes. Impervious surfaces must not exceed 2% of the proposed easement area unless the applicant is granted a waiver. Waiver requests, if needed, must be submitted at least 90 days prior to closing, but it is highly suggested to submit the request simultaneously with the application materials. Refer to the Impervious Surface Worksheet to see what factors NRCS will be considering when reviewing your waiver request.



See: [Impervious Surface Worksheet](#)

## Third-party rights do not interfere with ALE purposes



Administratively acceptable outstanding rights are those that would not interfere with an agricultural land easement's ability to protect the agricultural uses by limiting the nonagricultural uses. Examples of administratively acceptable outstanding rights may include defined rights of way or easements for existing roads and utilities (e.g., electric, gas, sewer, water, or communications). NRCS will determine whether any existing third-party rights harm or interfere with achieving ACEP-ALE purposes on land in which gas, oil, earth, or mineral rights exploration has been leased or is owned by someone other than the landowner. Identifying potential conflicts on a title report or title commitment is suggested.



Reference: Conservation Programs Manual Part 528.33 A. and 528.34.

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## ADDITIONAL CONSIDERATIONS

The following two items are listed as eligibility criteria in the Conservation Programs Manual. In practice, NRCS will not consider projects to be ineligible based on these factors. These factors are considered in ranking. Be prepared to provide evidence of these factors at the time of application to make your project more competitive.

### Access to agricultural markets for its products, infrastructure supporting agricultural production, and other support services



Provide maps or other documents showing proximity to other agricultural operations, infrastructure, and markets. Examples might include equipment dealers, feed mills, farmers markets, etc. The state ranking criteria may provide a point of reference for the preferred proximity.



See: [Map showing proximity to agricultural operations](#)



Reference: Conservation Programs Manual Part 528.33 A.

### Development pressure



Provide data documenting or indicating development pressure, such as the percent decrease of "land in farms" from the USDA NASS Census of Agriculture in the county in which the parcel is located, conversion data from local assessment records, regional or local planning reports, or nationwide assessments.



See: [NASS Census of Agriculture Land in Farms Data](#)



See: [American Farmland Trust's "Farms Under Threat: The State of the States" report](#)



Reference: Conservation Programs Manual Part 528.33 A.

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