

Ruckelshaus Institute NRCS – ACEP-ALE Eligible Entity Certification Program

FACT SHEET

The Farm Bill and NRCS regulations allow for certain eligible entities that work with the NRCS's Agricultural Conservation Easement Program – Agricultural Land Easements (ACEP-ALE) to become certified to reduce oversight and streamline due diligence review processes.

What is an eligible entity?

An eligible entity is an Indian Tribe, State government, local government, or a nongovernmental organization that has a farmland or grassland protection program that purchases agricultural land easements for the purposes of protecting: (1) The agricultural use and future viability, and related conservation values, of eligible land by limiting nonagricultural uses of that land that negatively affect the agricultural uses and conservation values; or (2) Grazing uses and related conservation values by restoring or conserving eligible land.

How can an eligible entity get certified?

Eligible entities may apply to the NRCS to become certified. There are 7 requirements for certification, as outlined in [7 C.F.R. § 1468.26 \(2023\)](#). Generally, the eligible entity must include a cover letter outlining their qualifications to be certified, with proof that the entity is familiar with ACEP-ALE and has closed a number of easements with ACEP-ALE, Farm and Ranchland Land Protection Program (FRPP), or Farmland Protection Program (FPP).

The Easement Program Division (EPD) at NRCS National Headquarters (NHQ) provides the criteria for entity certification. Regional Conservationists provide final approval of entity certification requests. Eligible entities interested in seeking certification will apply to State Conservationists. State Conservationists conduct an initial review of entity certification requests and may make recommendations to the Regional Conservationist regarding the requests. NRCS state staff will monitor easement transactions and report any violations of entity certification requirements to the State Conservationist and the EPD.

What are the benefits of certification?

For NRCS offices:

1. The State Conservationist does not need to submit a letter of approval for the acquisition to proceed.
2. No National Internal Controls (IC) review. When working with certified entities, the NHQ IC review process is no longer required. States still conduct some level of IC review to ensure all documentation has been submitted to proceed with payment and closing.

For eligible entities:

1. Certified entities may purchase easements without NRCS approval of the deed, baseline, title or appraisal.
2. Certified entities are afforded more flexibility in minimum deed terms.

For both NRCS offices and certified entities:

1. Extended agreement periods. Typical ACEP-ALE agreements (cooperative agreements) last 3 years. Agreements (grant agreements) with certified entities last a minimum of 5 years and a maximum of 7 years.
2. Shortened acquisition process. In ACEP-ALE projects with non-certified entities, the NRCS must review all due diligence (appraisals, title, draft deeds, etc.). ACEP-ALE projects with certified entities avoid all due diligence review requirements.

Examples of average differences in closing times between certified and non-certified entities in one state¹:

	CERTIFIED ENTITIES	NON-CERTIFIED ENTITIES
Average closing time from enrollment (all projects)	12 months	14.56 months
Average closing time from enrollment (CE value >\$1mil)	13 months	20 months
Average time to close after due diligence received (all projects)	23 days	30 days
Average time to close after due diligence received (CE value >\$1mil)	29.5	43 days
Average time to review due diligence (deeds, appraisals, baseline reports, national IC reviews).	0 days	180 days

What are the costs of certification?

For NRCS offices:

1. NRCS state offices no longer have the opportunity to review due diligence.
2. NRCS state offices will need to conduct due diligence review of at least 15% of closed easements from certified entities every year. This will include a review of the deed, legal description or survey, title clearance and insurance, appraisal, and the baseline report.
3. NRCS state offices will need to conduct annual quality assurance reviews, to ensure that easements were acquired, monitored and enforced in accordance with NRCS requirements.

For eligible entities:

1. There will be staff time associated with assembling the information required for the application package.
2. Eligible entities could be liable to repay the entire easement value if the entity is found to be in violation of the grant agreement. Such violations include failure to complete: easement deed, title review, title insurance, appraisal, ALE plan (as needed), or annual monitoring. This increases the overall risk to land trusts.

¹ Since there are so few certified entities, it is very difficult to comprehensively evaluate differences between certified and non-certified entities. We provide this information for illustrative purposes as these data come from a small sample size in a single state. There may be other factors affecting closing times.

FOR MORE INFORMATION:

NRCS offices and land trusts can review [440 CPM Part 528, Subpart H](#), or [7 C.F.R. § 1468.26](#).

FOR QUESTIONS:

- NRCS offices can contact their Regional Conservationist or the EPD.
- Land trusts and other easement-holding entities can contact their state NRCS offices.