

**Agricultural Conservation Easement Program (ACEP) – Agricultural Land Easement
FY2014 Eligible Entity Cash Contribution Requirement Waiver Request Worksheet**

Background: The Federal share provided by NRCS for enrollments in the Agricultural Land Easement component of the Agricultural Conservation Easement Program (ACEP-ALE) shall not exceed 50 percent of the fair market value of the agricultural land easement. The eligible entity must provide a non-Federal share that is at least equivalent to the NRCS share.

An eligible entity may include as part of its share a qualified conservation contribution from the landowner if the eligible entity contributes its own cash resources in an amount that is at least 50 percent of the NRCS share. NRCS may waive a portion of the eligible entity cash contribution requirement where, as determined by NRCS, the parcel is—

1. Of special significance,
2. Subject to an increase in the private landowner donation that is equal to the amount of the waiver, if the landowner donation is voluntary, and
3. In active agricultural production.

A waiver of the eligible entity cash contribution requirement does not result in an increase in the NRCS share. Waivers are considered on an individual parcel basis and eligible entities must submit one waiver request per parcel. The determination for approval will be based upon whether the proposed application will protect land of special significance.

Instructions: When NRCS receives a request from an eligible entity to waive the cash contribution requirement for a parcel that meets land and landowner eligibility requirements and ranks high enough to for potential funding, NRCS will review the request using this Eligible Entity Cash Contribution Reduction Waiver Request Worksheet (Worksheet). A complete request must be received prior to State deadlines for the request to be considered in fiscal year (FY) 2014.

To be considered complete, a request from an eligible entity must include—

- A signed letter from the eligible entity to the State Conservationist (STC), requesting a reduction in the eligible entity cash contribution requirement to either 25 percent or 10 percent of the NRCS share, as applicable.
 - If the request is to reduce the cash contribution requirement to 10 percent of the NRCS share, then the request must include the name and legal citation to the State Tax Credit Program;
- A signed letter from the landowner, or landowner's representative confirming that the landowner's donation is voluntary and describing the property's active agricultural production.
- Independent evidence of the property's active agricultural production.
- Evidence of significant threat of development or fragmentation in proximity to the parcel location, such as residential, nonagricultural commercial, industrial, or incompatible energy development, and including for grassland parcels if there is any threat of conversion to nongrassland uses.
- Evidence of geographic proximity to other easements or protected areas supporting protection of agricultural uses or grassland.
- Map of prime soils or grasslands showing land to be enrolled and identifying the geographic proximity of other protected areas.
- Plan, report, map, mission statements, designation, or other operational document referenced in section 4 below. (Provide copy of pertinent information from the plan or web link, if available.)
- Aerial photograph identifying the applicant's land to be enrolled in the USDA program and the land of special significance. A map or photograph should be included of the surrounding project area, if applicable.
- A description of the substantial positive and direct outcome (quantified as much as possible) expected from implementing the Agricultural Land Easement and associated Agricultural Land Easement Plan on the particular parcel.

Request # _____ Date Received: _____ NEST Entity Agreement # _____
NEST Parcel # _____

The NRCS designated conservationist will review the request, complete the worksheet, and submit the request and worksheet through a second-level reviewer designated by the STC, to the STC. The STC will review the request and worksheet to ensure that the request is of the highest quality, the worksheet is complete, and that the waiver of the eligible entity cash contribution requirement is justified.

The STC will decide whether NRCS will waive a portion of the eligible entity cash contribution requirement, to 25 or 10 percent, for requests submitted in FY 2014 that meet all of the requirements listed in this worksheet and applicable guidance. The STC must provide the eligible entity written notification of their decision, with appropriate appeal rights if the waiver is denied.

The waiver of the eligible entity cash contribution requirement is not transferrable and is only applicable to the parcel for which the waiver was requested. Reviews of waiver requests do not have to be completed for applications that are not selected as funded or substitute parcels in FY 2014. Waiver requests for applications or parcels that are not funded in FY 2014 will be subject to the waiver requirements in place during the fiscal year the parcel is funded.

Section 1: Application Information (Required)

(List only one parcel per waiver request):

State: _____ Location (County): _____ Parcel Acres: _____

Entity Name: _____

Landowner Name: _____

Entity Request Date: _____ Entity Application Date: _____

NEST Application Number: _____ Land Eligibility Category: _____

Yes **No** The entity is eligible and has submitted a complete request to waive the cash contribution requirement for a parcel that meets land and landowner eligibility requirements.
Do not complete sections 2 through 5 of the worksheet if the answer to this question is No.

Section 2: Requested Reduction in Eligible Entity Cash Contribution Requirements (Required)

For FY 2014, for ACEP-ALE projects of special significance, the entity cash contribution may be reduced to either 25 percent of the NRCS share or to 10 percent of the NRCS share in States that offer a State tax credit for a qualified conservation contribution on agricultural land. Unless an entity submits information on the State tax credit program, the default selection will be a reduction to 25 percent.

Reduction in Entity Cash Contribution Requirement: *(select one of the options below)*

Entity is requesting to reduce the eligible entity cash contribution to 25 percent of the NRCS contribution.

Entity is requesting to reduce the eligible entity cash contribution to 10 percent of the NRCS contribution and the State government offers a tax credit for a qualified conservation Contribution on agricultural land

Enter name of and citation to the State tax credit program:

Section 3: Confirmation of Voluntary Contribution and Active Agricultural Production (Required)
(Both items must be confirmed to be eligible for a waiver)

- NRCS has reviewed the signed letter from the landowner and confirmed that the increase in the landowner donation is voluntary
- NRCS has confirmed that the land is in active agricultural production. Documentation of active agricultural production was determined through _____.
 - *For FY 2014 land considered to be in active agricultural production must meet the definition of "agricultural use" provided in the existing FRPP regulation at 7 CFR Section 1491.3 and be land on which agricultural and forest-related products, or livestock are being produced or have been produced within 1 year of the date of application for ACEP-ALE.*

Section 4: ACEP-ALE Project of Special Significance Criteria

To qualify as land of special significance the land must meet one of the following criteria listed in part 1 and must meet at least one of the criteria identified in part 2.

Part 1: Parcel's land type and threat of development *(select one)*

NRCS must confirm that the land is—

- Agricultural land that—
 - a) Has prime soils under a significant threat of development or fragmentation, and
 - b) Is in geographic proximity to other easements or protected areas supporting agricultural uses to help ensure future agricultural viability and resource protection on the offered parcel.
- Grassland that—
 - a) Is under a significant threat of development, including incompatible energy development; conversion to nongrassland uses; or fragmentation, and
 - b) Is in geographic proximity to other easements or protected areas supporting grasslands or other compatible land uses to help ensure future agricultural viability and resource protection on the offered parcel.

Soils maps and other documentation supporting the parcel land use, the threat of development, and geographic proximity to protected areas must be attached to the waiver request.

Part 2: National Criteria of Special Significance *(check all that apply)*

The land of special significance is clearly identified in an applicable plan, report, map, designation, or other operational document addressing one of the criteria identified below. Any factors identified below as contributing to the special significance of the land must be protected through the Agricultural Land Easement and associated Agricultural Land Easement Plan to be funded through ACEP. Protection of the special significance will be an integral component addressed in the applicable plan's objectives.

- Parcel is listed on National Register of Historic Sites or is a traditional cultural property
(attach map or designating document)
- 50 percent of adjacent land is agricultural and parcel is within a micropolitan statistical area.
<https://www.census.gov/population/metro/>
Name of micropolitan statistical area: _____ *(attach map)*
- Parcel is within a metropolitan statistical area. <https://www.census.gov/population/metro/>
Name of metropolitan statistical area: _____ *(attach map)*
- Is an education or demonstration farm or ranch focused on agriculture production and natural

resource conservation. (*attach farm/ranch plan or mission statement*)

Is a farm or ranch operated for the purpose of increasing participation in agriculture production and natural resource conservation by (*check all that apply*):

Underserved Communities

Veterans

Disabled Farmers or Ranchers

Beginning Farmers or Ranchers

Officially designated as having been in same family ownership for 100+ years.
(*attach evidence of designation*)

Grasslands that provides or could provide habitat for threatened and endangered species, or species in decline; protects sensitive or declining native prairie or grassland types; or provides protection of highly sensitive natural resources.
(*Attach applicable plan or report document*)

Section 5: Description/Overview

Describe the project of special significance and how the applicant's activity funded through the ACEP-ALE is a critical and an integral component in addressing or protecting the—

1. Significant threat of development or conversion,
2. Agricultural production on parcel, and
3. Special Significance of parcel.

In the description include the current resource baseline condition and the future condition. Include in the description the substantial positive and direct outcome (quantify as much as possible) expected from implementing the Agricultural Land Easement and associated Agricultural Land Easement Plan.
(*Add additional pages as needed to clearly describe project and the potential outcomes*)

Description of agricultural production on parcel:

Description of significant threat of development or conversion:

Description of special significance of parcel:

Request # _____ Date Received: _____ NEST Entity Agreement # _____
NEST Parcel # _____

Section 6: Certification

Designated Conservationist

I have completed a review of this eligible entity cash contribution reduction waiver request package and find it to be complete and the requested agreement will protect land of special significance.

Support Do Not Support, Reason: _____

Designated Conservationist: _____ Date: _____

Name: _____ Title: _____

2nd Level Review:

I have completed a review of this eligible entity cash contribution reduction waiver request package and find it to be complete and the requested agreement will protect land of special significance.

Concur Do Not Concur, Reason: _____

2nd Level Reviewer: _____ Date: _____

Name: _____ Title: _____

State Conservationist Approval

I certify the information in this request is complete and meets the requirements. The STC must provide the eligible entity written notification of their decision, with appropriate appeal rights if denied.

Approved Not Approved, Reason: _____

State Conservationist: _____ Date: _____

Date

[Name of STC]

State Conservationist

Natural Resources Conservation Service

Street Address

City, State Zip Code

Phone Number

Dear State Conservationist **[Name of STC]**:

By copy of this letter, we are requesting that the Natural Resources Conservation Service (NRCS) waive a portion of the eligible entity cash contribution requirement for the **[Landowner(s) Name]** parcel. This parcel is part of an Agricultural Land Easement (ALE) project for which we are seeking cost share assistance through the Agricultural Conservation Easement Program (ACEP). We are requesting a reduction in the eligible entity cash contribution requirement from 50 percent to **[25 percent or 10 percent]** of the Federal share provided by NRCS for this parcel. **[If the request is to reduce the cash contribution requirement to 10 percent of the NRCS share then the request should include a citation to the State Tax Credit Program.]**

This is a project of special significance, and it is subject to an increase in the private landowner donation that is equal to the amount of the waiver we are requesting. The landowner's donation is voluntary, and the property is in active agricultural production.

[Description of agricultural production on property]

[Description of significant threat of development or conversion]

This project is of special significance because:

- The parcel is listed on National Register of Historic Sites or is a Traditional Cultural Property (*attach map or designating document*)
- Fifty percent of adjacent land is non-agricultural and parcel is within a Micropolitan Statistical Area.
Name of Micropolitan Statistical Area: _____(*attach map*)
- The parcel is within a Metropolitan Statistical Area.
Name of Metropolitan Statistical Area: _____(*attach map*)
- The parcel is an education or demonstration farm or ranch focused on agriculture production and natural resource conservation. (*attach farm/ranch plan or mission statement*).
- The parcel is a farm or ranch operated for the purpose of increasing participation in agriculture production and natural resource conservation by (*check all that apply*):

Attachment 6

- Underserved Communities
 - Veterans
 - Disabled Farmers
 - Beginning Farmers
-
- The parcel is officially designated as having been in same ownership for 100+ years. (*Attach evidence of designation.*)
 - The parcel contains grasslands that provides or could provide habitat for threatened and endangered species or species in decline; protects sensitive or declining native prairie or grassland types; or provides protection of highly sensitive natural resources. (*Attach applicable plan or report document.*)

[Description of Special Significance of project]

Attached to this letter please find the following documents supporting this request:

- A signed letter from the landowner, or landowner's representative, explaining that the landowner's donation is voluntary and describing the property's active agricultural production;
- Evidence of the property's active agricultural production;
- Evidence of significant threat of development, this includes incompatible energy development, conversion to non-grassland uses, or fragmentation if the parcel is grassland;
- Evidence of geographic proximity to other easements/protected areas supporting protection of agricultural uses or grassland;
- Map of prime soils or grasslands showing land to be enrolled and identifying other protected areas within the required geographic proximity.
- Plan, report, map, mission statements, designation, or other operational document documenting the special significance indentified above.
- Aerial photograph identifying the land to be enrolled in ACEP and indentifying the areas or features of special significance. A map or photograph should be included of the surrounding project area, if applicable.

Attachment 6

If you have any questions concerning this waiver request and associated documentation, please contact **[Entity Representative]** at **[phone and email]**.

Sincerely,

[Name of Entity Representative]
[Entity]

Attachments

cc:
[Landowner(s) or Landowner's(s') Representative(s)]



SAMPLE APPROVAL LETTER – Eligible Entity Cash Contribution Requirement Waiver Request
Date

Entity Name
Entity Address

Dear [Entity]:

Re: Request to Waive Cash Contribution Requirement for the **[Insert Parcel Landowner Name]** Project

Thank you for your letter of **[Date of Request Letter]**, in which you request the Natural Resources Conservation Service (NRCS) waive a portion of the eligible entity cash contribution requirement for an Agricultural Land Easement (ALE) project for which you are seeking cost share assistance through the Agricultural Conservation Easement Program (ACEP). At NRCS's discretion, NRCS may waive a portion of the eligible entity cash contribution requirement for projects of special significance, subject to an increase in the private landowner donation that is equal to the amount of the waiver, if the landowner donation is voluntary and the property is in active agricultural production. The determination of special significance is made on an individual parcel basis.

Upon review of your request and associated documents, NRCS determined this parcel meets the fiscal year 2014 program requirements to waive a portion of the eligible entity cash contribution requirement for projects of special significance. NRCS determined this parcel is subject to an increase in the private landowner donation that is equal to the amount of the waiver you requested, that the landowner's donation is voluntary, and the property is in active agricultural production.

Your request for waiver of a portion of the eligible entity cash contribution requirement is approved. The **[Insert Parcel Landowner Name]** project has been evaluated and determined to be of special significance because:

- The parcel is listed on National Register of Historic Sites or is a Traditional Cultural Property
- 50% of adjacent land is non-agricultural and parcel is within the **[Insert Name]** Micropolitan Statistical Area.
- The parcel is within the **[Insert Name]** Metropolitan Statistical Area.
- The parcel is an education or demonstration farm or ranch focused on agriculture production and natural resource conservation.



United States Department of Agriculture

- The parcel is a farm or ranch operated for the purpose of increasing participation in agriculture production and natural resource conservation by *(check all that apply)*:
 - Underserved Communities
 - Veterans
 - Disabled Farmers
 - Beginning Farmers

- The parcel is officially designated as having been in same ownership for 100+ years.

- The parcel contains Grasslands that provides or could provide habitat for threatened and endangered species, or species in decline; protects sensitive or declining native prairie or grassland types; or provides protection of highly sensitive natural resources.

If the **[Insert Parcel Landowner Name]** parcel is approved for FY 2014 and listed on a FY 2014 ACEP-ALE Cooperative Agreement, the applicable eligible entity cash contribution requirement for this parcel is **[25 percent or 10 percent]** of the Federal share provided by NRCS. If the parcel is ultimately funded, a copy of this letter must be included with the payment request for this parcel. Unless you withdraw your application from consideration we will continue to evaluate it for funding. If you choose to withdraw your application please notify us in writing as soon as possible.

We appreciate your efforts to protect agricultural land and it's related conservation values and look forward to working with you to protect agricultural land in the future.

If you have any questions concerning ACEP-ALE program requirements, please contact **[State Program Manager]** at **[Phone and Email]**.

Sincerely,

[State Conservationist]



SAMPLE DENIAL LETTER – Eligible Entity Cash Contribution Requirement Waiver Request

Date

Entity Name
Entity Address

Dear [Entity]:

Re: Request to Waive Eligible Entity Cash Contribution Requirement for the **[Insert Parcel Landowner Name]** Project

Thank you for your letter of **[Date of Request Letter]**, in which you request the Natural Resources Conservation Service (NRCS) waive a portion of the eligible entity cash contribution requirement for an Agricultural Land Easement (ALE) project for which you are seeking cost share assistance through the Agricultural Conservation Easement Program (ACEP). At NRCS's discretion, NRCS may waive a portion of the eligible entity cash contribution requirement for projects of special significance, subject to an increase in the private landowner donation that is equal to the amount of the waiver, if the landowner donation is voluntary and the property is in active agricultural production. The determination of special significance is made on an individual parcel basis.

Upon review of your request and associated documents, NRCS determined this parcel does not currently meet one or more of the above requirements. Specifically, NRCS determined:

- The project of does not meet the Federal fiscal year (FY) 2014 program requirements for projects of special significance.
- The project is not subject to an increase in the private landowner donation that is equal to the amount of the waiver.
- The private landowner donation is not voluntary.
- The property is not in active agricultural production.

Your request to waive a portion of the cash contribution requirement is not approved at this time.

If you have sufficient funds available to meet the standard eligible entity cash contribution requirement of 50 percent of the Federal share and the parcel is otherwise eligible, this parcel may still be considered for cost-share assistance through ACEP-ALE, and NRCS can continue to evaluate it for funding in FY 2014. If you do not have sufficient funds or choose to withdraw your application, please notify us in writing as soon as possible.

We appreciate your efforts to protect agricultural land and its related conservation values and look forward to working with you to protect agricultural land in the future.



United States Department of Agriculture

If you do not believe this determination is in accordance with the applicable program provisions, please see below for information regarding your informal appeal rights applicable to this determination, the process for requesting an informal appeal, and the procedure for requesting further review before the NRCS State Conservationist (STC), Farm Service Agency (FSA) County Committee (COC), or National Appeals Division (NAD). Mediation is available as part of NRCS's informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the timeframe in which you may file an appeal stops. When mediation closes, the clock restarts, and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the **[Insert State name]** State mediation program at the following address and provide a copy of your request for mediation to NRCS. **[Insert mediation program address or other address as agreed on by the State certified mediation program and State Office]**

You may request that the NRCS STC reconsider this decision by filing a written request no later than 30 calendar days after you receive this notice in accordance with NRCS's appeal procedures found at 7 CFR Part 614. If you request reconsideration, you have the right to an informal hearing with the NRCS STC that you or your representative may attend personally or by telephone. If you choose to seek reconsideration, you may later appeal the decision to National Appeals Division (NAD). To request reconsideration, write to the NRCS STC at the following address and explain why you believe this determination is erroneous. **[Insert applicable address]**

You may appeal this decision to the FSA COC by filing a written request no later than 30 calendar days after you receive this notice in accordance with the FSA appeal procedures found at 7 CFR Part 780. If you appeal to the COC, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. To appeal, write to the COC at the following address and explain why you believe this decision is erroneous. **[Insert COC address]**

You may appeal this decision to National Appeals Division (NAD) by filing a written request no later than 30 calendar days after you receive this notice in accordance with the NAD appeal procedures found at 7 CFR Part 11. If you appeal to NAD, you have the right to a hearing that you or your representative may attend. Once a hearing with NAD begins, you waive any rights to reconsideration, an appeal to FSA, and mediation. To appeal, you must write to NAD at the following address, explain why you believe this determination is erroneous, and provide a copy to FSA. You must personally sign your written appeal to NAD and include a copy of this letter. **[Insert NAD address]**



United States Department of Agriculture

Please be aware, the outcome of any mediation or appeal decisions do not guarantee funding of the agreement or parcel in FY 2014. If you have any questions concerning ACEP-ALE program requirements, please contact [**State Program Manager**] at [**Phone and Email**].

Sincerely,

[State Conservationist]