

LIVESTOCK EXCLUSION WITH REDUCED SETBACK
DCR Specifications for No. LE-2

This document specifies terms and conditions for the Virginia Agricultural BMP Cost Share Program's stream exclusion with reduced setback best management practice that are applicable to all contracts entered into with respect to that practice.

A. Description and Purpose

This practice will promote structural and/or management practice(s) that will enhance or protect vegetative cover to reduce runoff of nutrients and some sediments from existing pastureland and therefore reduces NPS pollution associated with grazing livestock.

The purpose of this practice is to provide alternative livestock watering systems and fencing that will improve water quality by eliminating direct access to surface waters and by improving pasture management by establishing rotational grazing to control erosion. When cost-share funds for establishing rotational grazing are provided participants must develop and implement a rotational grazing plan. **Stream exclusion fencing is a required component of this practice.**

B. Policies and Specifications

1. The majority of the water quality improvement achieved by implementing this practice is associated with excluding livestock from surface waters. The least cost alternative that best resolves the resource concern must be utilized.
2. A written management plan, to include a rotational grazing component, operations and maintenance plan must be prepared and followed in accordance with NRCS FOTG. Factors to be addressed should include water sources, environmental impact of runoff, soil fertility maintenance, access lanes, fencing needs, wetlands, minimum cover or grazing heights, carrying capacity of the land and rotational schedules.
3. Flash grazing (allowing livestock to graze the excluded riparian area) is not allowed as a management alternative during the lifespan of this practice. Grazing (including flash grazing) is not allowed in the protected riparian area during the lifespan of this practice. When both sides of the stream are under the same ownership livestock must be excluded from both sides of the stream.
4. To supply water, cost-share and tax credit are authorized for:
 - i. Development of springs or seeps, including fencing of the area, where needed, to protect the development from pollution by livestock.
 - ii. Construction or deepening of wells if it is the only technically feasible alternative for a water source.
 - iii. Construction or repair of dugouts, dams, pits, or ponds (if the only technically feasible alternative for water source), including fencing of the area, where needed, to protect the development from pollution by livestock.

- iv. Installing pipelines, storage facilities, cisterns, troughs, and artificial watersheds.
 - v. A water supply system can be a portable system to meet the management requirements necessary for systems operation rather than a large number of permanent water facilities.
 - vi. Wells must be provided with pumping equipment (except for artesian wells) and adequate facilities. Cost sharing is authorized in connection with wells for pipe installed in the well (including the casing), pumps, pumping equipment, and well houses. Districts may approve 50% cost share for dry wells and/or well location studies (geotechnical surveys) for the development of an alternative watering systems on a case by case basis and at the discretion of the SWCD's Board.
 - vii. Pumps and equipment associated with a portable and permanent watering system. Pumps may operate on purchased electrical current or alternative energy sources such as solar, battery, mechanical or hydraulic energy. The selected pump and associated equipment should be the most cost effective for the specific site and application. The replacement costs of pumps and pumping equipment components which fail to function properly during the lifespan of the practice are considered maintenance expenses and are the responsibility of the participant.
5. To establish pasture management, state cost-share and tax credit are authorized for:
- i. Permanent stream exclusion fence that must be placed a minimum of 10 feet away from the stream, except as designed in areas immediately adjacent to livestock crossings and controlled hardened accesses. Stream exclusion fencing selection must meet the minimum NRCS permanent fence standard for the livestock being excluded.
 - ii. Permanent or temporary fencing, for grazing distribution, and fencing to restrict stream access in connection with newly developed watering facilities.
 - iii. Interior fencing, watering facilities and/or intensive rotational grazing systems that distribute grazing to improve water quality are allowed when combined with the livestock exclusion component of this practice on an adjacent stream or sensitive feature.
 - iv. Stream crossings for grazing distribution, as long as the crossing restricts access to the stream.
 - v. Fence chargers used to electrify permanent or temporary fencing.
6. Portable or temporary system components (fencing, etc.) cannot be utilized in other areas or moved from fields utilized in the system plan. The replacement costs of portable components which fail to function properly during the lifespan of the practice are considered maintenance expenses and are the responsibility of the participant. A portable water supply system is any system or component (i.e. trough, pipe, etc.) that is:
- i. Commercially available or farmer constructed,
 - ii. Large enough to provide a timely and sufficient volume of water for the livestock to be contained in a specific area for which the system is designed,
 - iii. Capable of being maintained in a stable position and protected from any damage while the system or component is in use, and capable of being moved

in a timely manner from one location to another within the acreage for which the system is designed.

7. No state cost-share and tax credit is authorized under the practice for any installation that is:
 - i. PRIMARILY for wildlife, dry lot feeding, barn lots, or barns.
 - ii. To make it possible to graze crop residues, field borders, or temporary or supplemental pasture crops.
 - iii. For boundary fencing or water supply systems used to establish new pastures not currently in use.
 - iii. For the purpose of providing water for the farm or ranch headquarters.
8. The conservation planning process for developing an alternative watering system for livestock should include consideration some means of providing water to the livestock during emergency conditions. Generators may not receive cost-share.
9. The participant is responsible to inspect and maintain fencing. In the event the fencing is damaged or destroyed it is the responsibility of the participant to repair or replace fencing to original location and condition with no additional cost share funding. Participants may not simultaneously receive any incentives associated with the WP-2D practice when implementing this practice.
10. State cost-share and tax credit for implementing this practice are limited to pastureland that borders a live stream. Exception to the (live stream requirement) may be granted in cases of severe environmental degradation occurring in and around features such as, seeps, ponds, wetlands, or sinkholes, etc.
11. All permits or approvals necessary are the responsibility of the applicant.
12. The primary water use of the components which were installed with state cost-share and tax credit must be for the purpose of providing water for livestock; however, incidental use is not prohibited. State cost-share and tax credit is not permitted for any electrical, structural, or plumbing supplies, including pipe, or associated construction costs for developing any incidental use. When an incidental use is anticipated, the District Board should consider the applicant's intent before approving the request. Incidental use will be documented in the applicant's file.
13. Soil loss rates must be computed for all applications for use in establishing priority considerations.
14. This practice is subject to NRCS Standards 528 Prescribed Grazing, 382 Fence, 390 Riparian Herbaceous Cover, 533 Pumping Plant, 561 Heavy Use Area Protection, 574 Spring Development, 575 Trails and Walkways, 578 Stream Crossing, , 614 Watering Facility, 516 Livestock Pipeline, 472 Access Control, 642 Water Well.
15. All practice components implemented must be maintained for a minimum of 10 years following the calendar year of installation. The lifespan begins on Jan. 1 of the calendar year following the year of certification of completion. By accepting either a cost-share payment or a state tax credit for this practice the participant agrees to maintain all practice components for the specified lifespan. This

practice is subject to spot check by the SWCD throughout the lifespan of the practice and failure to maintain the practice may result in reimbursement of cost share and/or tax credits.

C. Rate(s)

1. A cost-share rate based on 50% of the lesser of the estimated or actual cost of all eligible components has been established for this practice.

Exception: A cost-share rate based on 80% reimbursement of the estimated or actual cost is available for any permanent water body exclusion fence that is placed at a minimum of 35 feet away from the water body. To be eligible for the 80% reimbursement rate, the entire water body must be fenced at the 35-ft minimum buffer width. Cost-share may be from state funds or a combination of state and other sources.

2. As set forth by Virginia Code § 58.1-339.3 and §58.1-439.5, Virginia law currently provides a tax credit for implementation of certain BMP practices. The current tax credit rate, which is subject to change in accordance with the Code of Virginia, is 25% of the total eligible cost not to exceed \$17,500.00.
3. If a cooperator receives cost-share, only the cooperator's eligible out-of-pocket share of the project cost is used to determine the tax credit.

D. Technical Responsibility

Technical and administrative responsibility is assigned to qualified technical DCR and SWCD staff in consultation, where appropriate and based on the controlling standard, with DCR, Virginia Certified Nutrient Management Planner(s), NRCS, DOF, and VCE. Individuals certifying technical need and technical practice installation shall have appropriate certifications as described above, and/or Engineering Job Approval Authority (EJAA), for the designed and installed component(s). All practices are subject to spot check procedures and any other quality control measures.

Revised March, 2016