

# VIRGINIA AGRICULTURAL BEST MANAGEMENT PRACTICE TAX CREDIT PROGRAM

## Overview

The goal of the Agricultural (Ag.) Best Management Practices (BMP) Tax Credit Program (TCP) is to encourage voluntary installation of BMPs that address Virginia's nonpoint source pollution water quality objectives. As with any tax credit usage the taxpayer is ultimately responsible for determining that they are eligible to utilize the tax credit in compliance with instructions and regulations from the Virginia Department of Taxation. Participation in Virginia's agricultural cost-share and/or tax credit programs does not convey the public's right to access the participant's property. The current Virginia Agricultural Best Management Practice Tax Credit is twenty-five percent (25%) of the total eligible cost not to exceed \$17,500.00. If a cooperator receives a cost-share payment, only the cooperators share of the project (his out of pocket expense) is used to determine the amount of the tax credit.

The Agricultural BMP Tax Credit Program is managed and implemented with similar policies and procedures to the Agricultural BMP Cost-share Program. The Virginia Agricultural Best Management Practices Tax Credit Program shall operate following the guidelines of the agricultural BMP cost share program in general, except as otherwise expressly provided in this document. Implementers should follow all aspects of the Virginia Agricultural BMP Cost-Share Program (VACS) manual, unless specifically stated otherwise in these guidelines. This guidance is intended to address any differences between the two.

The applicable Code of Virginia Section as amended follows:

§ [58.1-339.3](#). Agricultural best management practices tax credit.

A. For all taxable years beginning on and after January 1, 1998, any individual who is engaged in agricultural production for market, or has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a soil conservation plan approved by the local Soil And Water Conservation District (SWCD), shall be allowed a credit against the tax imposed by § [58.1-320](#) of an amount equaling 25 percent of the first \$70,000 expended for agricultural best management practices by the individual.

As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board (VSWCB) which will provide a significant improvement to water quality in the state's streams and rivers and the Chesapeake Bay and is consistent with other state and federal programs that address agricultural, nonpoint-source-pollution management. Eligible practices shall include, but are not limited to, the following:

1. Livestock-waste and poultry-waste management;
2. Soil erosion control;
3. Nutrient and sediment filtration and detention;
4. Nutrient management; and
5. Pest management and pesticide handling.

A detailed list of the standards and criteria for practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Manual" published annually prior to July 1 by the Department of Conservation and Recreation.

B. Any practice approved by the local Soil and Water Conservation District Board shall be completed within the taxable year in which the credit is claimed. After the practice installation has been completed, the local SWCD Board shall certify the practice as approved and completed, and eligible for credit. The applicant shall forward the certification to the Department of Taxation on forms provided by the Department. The credit shall be allowed only for expenditures made by the taxpayer from funds of his own sources.

C. 1. The amount of such credit shall not exceed \$17,500 or the total amount of the tax imposed by this chapter, whichever is less, in the year the project was completed, as certified by the Board. Any taxpayer claiming a tax credit under this section shall not claim a credit under any similar Virginia law for costs related to the same eligible practices.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess may be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value. Tax credits shall be refunded within 90 days after the filing date of the income tax return on which the individual applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices by a pass-through entity such as a partnership, limited liability company, or electing small business corporation (S Corporation) shall be allocated to the individual partners, members, or shareholders in proportion to their ownership or interest in such entity.

E. A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates tax credits arising under this article to its partners, members or shareholders and the allocated credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ [58.1-1800](#) et seq.).

#### BMP Sign-up

Districts will conduct sign-up for the tax credit program on a continuous basis. Sign-up will be recorded in the Virginia Ag. BMP Tracking Program. **Applicants must have a District approved soil conservation plan to meet the Code requirements to receive an Ag. BMP Tax Credit.** Other types of professionally developed conservation planning documents as appropriate and as itemized below are acceptable to meet this requirement. The conservation plan must include the implementation of the BMP that is eligible to receive a tax credit.

Technical information for the requested BMP including a total estimated cost, must be completed by the District before the request is submitted to the District Board for consideration. Each District should establish a local schedule and deadlines for BMP completion for the tax credit program to allow time for paper work and field work to be completed prior to the authorization of the Tax Credit. Since the Code language requires that the BMP be completed within the taxable year in which the tax credit is claimed it is important that Districts assure that the tax credit approved date and practice completion date entered into

the Tracking Program occur within the same calendar (taxable year).

### Plan Requirements

Individuals wanting to participate in the Tax Credit Program must have a soil conservation plan approved by the local District Board of Directors prior to BMP installation. For the Tax Credit Program, the following types of conservation plans are acceptable as long as the plan includes the practice to be installed and an installation schedule for the specific practice.

- Soil Erosion Plans (NRCS standards, including plans for EQIP, WHIP, Food Security Act, Conservation Reserve Program)
- Nutrient Management Plans (DCR standards)
- Pest Management Plan (VCE standards)
- Department of Forestry Cost-Share Plan (VDOF standards)
- Ag Stewardship Plan (VDACS standards)
- Chesapeake Bay Preservation Act Plan for agricultural lands (DEQ standards)

Conservation plans should be written by an individual certified to write that type of conservation plan, and should meet current conservation planning standards. Comprehensive conservation planning for the tract is always encouraged. For those localities that are within the Chesapeake Bay Preservation Act area, agricultural lands as defined by local governments....

“...shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and this chapter.” [Chesapeake Bay Preservation Area Designation and Management Regulations].

At a minimum, a conservation plan must contain the BMP and an implementation schedule for the specific field or site. A private planner, technical service provider or other professional conservation staff of an appropriate federal, state or local agency can prepare the plan.

### Pre-approval of Tax credits BMPs

Final approval of practices for tax credit is the responsibility of the local Soil and Water Conservation District Board of Directors. District Boards of Directors should approve BMPs for tax credits based on the total estimated cost of the BMP before installation. Any cost over runs that may impact the amount of the approved tax credit may be approved as a separate action after the BMP is certified.

## Definition of Applicants

All individuals engaged in the production of agricultural products for market or *owners of equines that create needs for agricultural best management practices to reduce non-point source pollutants (after January 1, 2007)* within the boundaries of the Commonwealth of Virginia are eligible to participate in the Virginia Agricultural BMP Tax Credit Program. When an individual operates land not within the jurisdiction of a Soil and Water Conservation District, the District that has the landowner's hydrologic unit listed in the Virginia Agricultural Best Management Practices Cost-share Program guidelines section of this manual will administer the program to the landowner.

District service areas approved by the state Soil and Water Conservation Board have historically followed county borders. Agricultural fields may cross county borders and therefore a field may exist in more than one District. Additionally there may be discrepancies as to what district a given parcel resides in based upon tax parcel maps, boundary surveys, or other bonafide documentation. In 2016 DCR reviewed county boundaries and tax parcel boundaries and has adjusted some county boundaries to better follow legal tax parcel maps. For the purposes of this tax credit program only, Districts are urged to utilize the county boundary layer available in the Ag. BMP Tracking program to determine the district that will administer the Ag. BMP Tax Credit Program. Absent clarity of cost-share oversight authority for a given field from the revised boundary layer map, the District having the largest amount of acreage within its boundaries should administer the tax credit program for the entire field. However, alternatively, if neighboring Districts can cooperatively agree to utilize other existing boundary determination methodologies, those sources may be utilized.

Tax Credits are made to the applicant (by social security number or federal tax ID number) who signs the request form. An applicant can be a landowner, agent, or operator of record as long as the individual has control of the property. An applicant also means any corporation, association or partnership, or one or more individuals. Various companies, corporations, and partnership arrangements exist for farm ownership. Farm corporations (signing under Federal Tax Identification number) or partnerships operating under a farm name are classified as a single "applicant."

Lands located outside the state are not eligible; unless a portion of the field or site in need of treatment lies within Virginia's boundary, in which case the entire field or site in need of treatment is eligible.

## Pass-through Entity

§ 58.1-339.3.E. states that A pass-through tax entity, such as a partnership, limited liability company or electing small business corporation (S corporation), may appoint a tax matters representative, who shall be a general partner, member-manager or shareholder, and register that representative with the Tax Commissioner. To register the tax matters representative the tax entity must submit a Virginia Department of Taxation Form PTE with the commissioner of taxation. The form may be obtained from the Department of Taxation downloaded from the Department of Taxation web site or copied.



When an applicant agrees to carry out the approved BMP for the specified life span, the applicant is responsible regardless of changes in the control of the land. This includes the sale of the property as well as any change in farm lease arrangements. Maintenance agreements between the involved parties can be encouraged but ultimate responsibility still rests with the applicant. Districts should encourage landowner participation over tenant participation in their information and promotional campaigns.

A participant that fails to maintain the practice for the specified life span will be required to refund all or part of the tax credit amount. In the case of the death of the applicant this requirement may be waived. To waive the requirement of the lifespan of the practice in the case of a death requires an official action of the District Board that must be recorded in the minutes. The Board must notify the Department of Taxation and the Department of Conservation and Recreation in writing of this action, providing the year the tax credit was approved, as well as the contract number, instance number, and DCR specification code that the tax credit was authorized for.

### Documentation

For any practice receiving a tax credit, the District will require a signed landowner application and certification forms (DCR Cost Share Contract Form # 199-071 Parts 1, 2 & 3), a copy of a map showing field location and exact acreage, bills for all eligible practice components to determine total installation cost. Authorizing personnel will examine supporting data to determine eligible components and proper rates.

Districts will retain all billings and supporting data in their applicant files for a minimum of three years after the life span has expired. Districts must file their copy of all tax credit related forms by program year. Conservation plans and practice design sheets should be kept with individual case files according to cost-share program policy. Minimum document retention for authorized tax credit application forms will be three (3) years beyond the life span of the practice if the practice is installed. Canceled applications may be discarded after the initial (3) year period if not needed for future reference by the District.

### DCR Agricultural Engineering Program

This program provides engineering assistance to the 47 soil and water conservation districts across the Commonwealth. Engineering assistance includes; engineering support with designs, training of District staff, and the implementation of various quality control mechanisms. The most notable of these quality control mechanisms is the implementation of DCR's Engineering Job Approval Authority (EJAA) Program. See the glossary in this manual for a definition of EJAA.

DCR now has a Professional Engineer to serve as the State Engineer for agricultural BMP practices. With the addition of this professional staff, DCR developed a process to issue EJAA to District staff who have demonstrated competency in the design and construction of various agricultural best management practices per USDA-NRCS standards and specifications. **If a District staff person does not have DCR EJAA for any of the practice components being designed/installed as part of the VACS or tax credit practice, they are not authorized by DCR to proceed to construction of said practice components. As a result, they should contact the DCR Agricultural Engineer/technician servicing their District for further instructions on what requirements will be needed to complete the practice.**

Various levels of EJAA will be delegated to an individual District employee for each practice component based on increasing levels of complexity. For example, EJAA may be issued to a given

District staff person for a Livestock Pipeline based on a design that utilizes a maximum pipe diameter size of 1.5”. The District staff person cannot design a system with a pipeline that exceeds 1.5” diameter.

An individual EJAA sheet will be issued for each District staff person who holds DCR EJAA. This sheet fully defines the various levels for EJAA as well as their limits. Please see the below DCR EJAA chart to determine which practice components require DCR EJAA and which components require design by a Professional Engineer. If a VACS practice is not listed in this chart, the practice does not contain components that require EJAA or a Professional Engineer and the practice can proceed to completion without the EJAA requirement.

**All DCR EJAA and completed designs will be subject to annual reviews and engineering spot checks.**

**Tax Credit Practice Components Requiring EJAA or PE Review and Approval**

VACS Practice Code	VACS Practice Name	NRCS Practice Code	NRCS Practice Name	Professional Engineer (PE) or Engineering Job Approval Authority (EJAA) Required as indicated below
SE-2	Agricultural Shoreline Stabilization	580	Streambank and Shoreline Protection	PE
SL-6A	Small Acreage Grazing System	362	Diversion	EJAA
		376	Roofs and Covers	PE
		412	Grassed Waterway	EJAA
		516	Livestock Pipeline	EJAA
		558	Roof Runoff Structures	EJAA
		561	Heavy Use Area Protection	EJAA
		574	Spring Development	EJAA
		575	Trails and Walkways	EJAA
		614	Watering Facility	EJAA
SL-6B	Alternative Water System	642	Water Well	EJAA
		516	Livestock Pipeline	EJAA
		533	Pumping Plant	EJAA
		561	Heavy Use Area Protection	EJAA
		574	Spring Development	EJAA
		575	Trails and Walkways	EJAA
		578	Stream Crossing	EJAA
		614	Watering Facility	EJAA
		642	Water Well	EJAA

<b>VACS Practice Code</b>	<b>VACS Practice Name</b>	<b>NRCS Practice Code</b>	<b>NRCS Practice Name</b>	<b>Professional Engineer (PE) or Engineering Job Approval Authority (EJAA) Required as indicated below</b>
SL-11B	Farm Road, Animal Travel Lane, Heavy Use Area Stabilization	560	Access Road	EJAA
		561	Heavy Use Area Protection	EJAA
		575	Trails and Walkways	EJAA
WP-2B	Stream Crossings & Hardened Access	560	Access Road	EJAA
		575	Trails and Walkways	EJAA
		578	Stream Crossing	EJAA
		584	Channel Bed Stabilization	EJAA
WP-2C	Stream Channel Stabilization	584	Channel Bed Stabilization	EJAA
WP-4E	Animal Waste Structure Pumping Equipment	533	Pumping Plant	EJAA
		634	Waste Transfer	PE
WP-5	Stormwater Retention Pond	350	Sediment Basin	PE
		362	Diversion	EJAA
		378	Pond	PE
WP-7	Surface Water Runoff Impoundment for Water Quality	350	Sediment Basin	PE
		362	Diversion	EJAA
		378	Pond	PE
WP-8	Relocation of Confined Feeding Operations from Environmentally Sensitive Areas	313	Waste Storage Facility	PE
		350	Sediment Basin	PE
		356	Dike	EJAA
		359	Waste Treatment Lagoon	PE
		362	Diversion	EJAA
		412	Grassed Waterway	EJAA
		516	Livestock Pipeline	EJAA
		558	Roof Runoff Structure	EJAA
		560	Access Road	EJAA
		561	Heavy Use Area Protection	EJAA
		574	Spring Development	EJAA
		587	Structure for Water Control	PE
		614	Watering Facility	EJAA
633	Waste Recycling	PE		
642	Water Well	EJAA		



<b>VACS Practice Code</b>	<b>VACS Practice Name</b>	<b>NRCS Practice Code</b>	<b>NRCS Practice Name</b>	<b>Professional Engineer (PE) or Engineering Job Approval Authority (EJAA) Required as indicated below</b>
WQ-6	Constructed Wetlands	356	Dike	EJAA
		587	Structure for Water Control	PE
		634	Waste Transfer	PE
		658	Wetland Creation	EJAA
WQ-6B	Wetland Restoration	356	Dike	EJAA
		587	Structure for Water Control	PE
		657	Wetland Restoration	EJAA
		659	Wetland Enhancement	EJAA
WQ-7	Irrigation Water Recycling System	350	Sediment Basin	PE
		356	Dike	EJAA
		362	Diversions	EJAA
		393	Filter Strip	EJAA
		410	Grade Stabilization Structure	PE
		412	Grassed Waterway	EJAA
		430	Irrigation Pipeline	EJAA
		436	Irrigation Reservoir	PE
		441	Irrigation System-Micro irrigation	EJAA
		442	Sprinkler System	EJAA
		447	Irrigation System, Tailwater Recovery	EJAA
		449	Irrigation Water Management	EJAA
		466	Land Smoothing	EJAA
		468	Lined Waterway or Outlet	EJAA
		533	Pumping Plant	EJAA
		572	Spoil Spreading	EJAA
		582	Open Channel	EJAA
607	Surface Drain, Field Ditch	EJAA		
608	Surface Drain, Main or Lateral	EJAA		
620	Underground Outlet	EJAA		
638	Water and Sediment Control Basin	PE		
WQ-9	Capping/Plugging of Abandoned Wells	351	Water Well Decommissioning	EJAA

## Data Reporting

In order to accurately record and report tax credits provided to producers it is vital that all data requested be entered into the Ag BMP Tracking Program. Specifically tax credit data is captured on the Programs tab of the Ag BMP Tracking Program and should be entered using the following guidelines:

- The Estimated Instance Cost and Actual Instance Cost should be entered for both BMPs that receive both cost share and a tax credit, and, for tax credit only BMPS.
- The Tax Credit Amount Taken On value is the amount on which the Tax Credit Approved is based.
- Tax Credit Approved is the amount approved by the District Board and is used to validate the Tax Credit Issued amount. The Tax Credit Board Approval Date field is the date that the Board approved the Tax Credit. While this date can be the same as the date the Board approved the BMP itself, it can be different especially if there is an additional or second Tax Credit approved.
- If a Technical Certification Date has not been entered on the General tab the Tax Credit Issued and the Tax Credit Certification Signature Date fields are not available for entry. Until a BMP is certified as complete a Tax Credit cannot be issued.
- The Tax Credit Approved amount and the Tax Credit Board Approval Date fields must also be entered before the Tax Credit Issued and the Tax Credit Certification Signature Date fields are available for entry.
- The Tax Credit Issued amount and the Tax Credit Certification Signature Date are entered when the Tax Credit is issued. The Tax Credit Issued amount cannot be greater than the Tax Credit Approved amount and cannot be greater than 25% of the Tax Credit Amount Taken On amount. The Tax Credit Certification Signature Date cannot be before neither the Tax Credit Board Approval Date nor the Technical Certification Date.
- At the bottom of the Programs page the Sum of Approved Tax Credits and the Sum of Issued Tax Credits are provided for cases when more than one Tax Credit has been issued.
- If a second or additional tax credit is approved by the District Board a second tax credit record should be added instead of modifying the original tax credit record. The system automatically sums multiple tax credits when the Tax Credit Certificate is generated.

## Inspections and Spot Checks

All approved tax credit BMPs are subject to inspection for program compliance during the life span of the practice. Technical inspection and certification are the responsibility of designated technically responsible personnel (NRCS, District, DOF, and DCR). Random spot checks will be conducted annually by the District Conservation Specialist/Technician under the guidance of the Conservation District Coordinator to determine that the individual practice is still viable. Practices to be spot checked will be identified and inspected based upon Chesapeake Bay Program Office (CBPO) approved verification procedures.

Spot check report forms should be retained by the District and filed by program year. A copy of each spot check report should be made and forwarded to the Conservation District Coordinator and to any other agency providing cost-share for that project.

## Practice Failure

Practice failures or damage that results from other than weather related causes are not eligible for additional tax credit.

Practice maintenance is the responsibility of the applicant for the life span of the practice. Practices that are damaged or destroyed before certification are also the responsibility of the applicant and only the original authorized tax credit amount can be used to establish the practice.

Practice failures may occur due to unusual weather conditions, such as drought or severe storms that are beyond the control of the participant. If the practice has been certified and fails due to weather during the life span requirement, the participant may be entitled to additional tax credit in future sign-up periods. Re-application for practice failure can be authorized only once for the specific practice on the specified acreage (except where not eligible as stated in the practice specification). Re-applications will be subject to the life span requirement of the second application request.

Where ownership of the property has changed, the original applicant is still the individual responsible for the maintenance of the practice, and failing that, for the return of the tax credit directly to the Department of Taxation. The terms of any sales agreement lease agreement, or other transaction document for any property with a tax credit practice present should address this responsibility and be legally effective to transfer it to the new property owner/lessee. Upon the transfer of ownership or leasehold of the property, the original applicant must present to the SWCD either an executed copy of the, "Agricultural Best Management Practice Maintenance Agreement Transferring Responsibility for Best Management Practice" (see page IV-12 of this manual) transferring legal responsibility for maintenance of the practice to the new property owner/lessee or (2) a pro-rated return of tax credit funds directly to the Department of Taxation.

Commonwealth of Virginia  
 Agricultural Best Management Practice Maintenance  
 AGREEMENT TRANSFERRING RESPONSIBILITY FOR  
 BEST MANAGEMENT PRACTICE

This agreement is intended to designate the transfer of maintenance responsibility for a Best Management Practice that received cost-share or tax credit. The present participant (owner or manager) of the property has received funding from the Commonwealth of Virginia to implement a Best Management Practice on the below-referenced land unit. In return he/she has agreed to maintain the practice until \_\_\_\_\_. Completion of this agreement acknowledges assumption of this responsibility by the new participant, including the requirement to repay cost-share and tax credit received by the present participant if the BMP is not maintained according to state specifications.

Farm No. \_\_\_\_\_ Tract No. \_\_\_\_\_ Field No. (s) \_\_\_\_\_

VACS specification number \_\_\_\_\_ Extent Installed \_\_\_\_\_

Or

Contract No. \_\_\_\_\_

**PRESENT PARTICIPANT-NAME AND ADDRESS**

**NEW PARTICIPANT-NAME AND ADDRESS**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Phone No. \_\_\_\_\_

Phone No. \_\_\_\_\_

The undersigned hereby certify that the present participant has transferred to the new participant his or her right and interest in the land unit described above. In consideration of this transfer of ownership or leasehold, it is hereby agreed:

1. The new participant hereby assumes the duties and obligations of the present participant under Contract No. \_\_\_\_\_ to maintain the above BMP for its lifespan in accordance with state specifications, and to refund all or part of the cost-share assistance or tax credit if the practice is found not to meet state specifications, or if the practice is removed or not properly maintained during its lifespan. The new participant agrees to allow SWCD personnel access to his property for the purpose of verifying maintenance of the BMP.
2. The \_\_\_\_\_ SWCD acknowledges the transfer of the maintenance responsibility. Any cost-sharing or assistance provided under this transfer agreement shall be in accordance with applicable program rules and regulations of the Virginia Agricultural BMP Manual.

\_\_\_\_\_  
 (SIGNATURE OF PRESENT PARTICIPANT)

\_\_\_\_\_  
 (SIGNATURE OF NEW PARTICIPANT)

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 SSN or Federal Tax ID #

\_\_\_\_\_  
 SSN or Federal Tax ID #

APPROVED BY: \_\_\_\_\_  
 (SWCD Board member)

DATE: \_\_\_\_\_  
 (Board Approval Date)

Participants found, at any time of year, to have practices not meeting specifications or practices that have been destroyed during the designated life span will be contacted by the District and informed of the nature of the deficiency and the repayment requirements if not corrected. This should initially be a verbal notice (with the date documented in a case file). Verbal notice should be followed with a written notice (by certified mail) within two weeks. This notice must indicate the observed nature of the problem and allow the individual the opportunity to respond within two weeks.

Participants may be given a maximum grace period of six months from date of the written notification for practice compliance. At the end of the grace period, the practice will be re-inspected. The District will notify participants found with practices still not in compliance in writing that repayment of tax credit is required.

The return of tax credit funds required will be calculated on a straight-line prorated basis. All or part of the tax credit funds may be returned based upon a straight-line pro-rata basis if appropriate. This should be calculated on a monthly basis. For Example: XYZ SWCD authorized a \$1,200 tax credit for a SL-6B BMP to Farmer Green on October 10, 2004. Tax credit program guidelines stipulate that the lifespan of the practice begins on January 1 of the calendar year following the issuance of the tax credit (see Glossary Page X – 4). This practice is spot checked in August of 2007 and it is discovered that the land was sold in June '07 for development and the practice has been destroyed.

The district should calculate the landowner's pro-rata share as follows:

- Installation date: Oct. 10, 2004
- Lifespan of practice: 10 Years- Jan 1, 2005 through Dec 31, 2014 = 120 months
- Spot Check Date: Aug. 2007
- Practice in Compliance: Jan 2005 through June 2007: 30 months
- Tax Credit to Landowner: \$1,200  
\$1,200 divided by 120 months = \$10/month
- Repayment Calculation: 120 months – 30 months = 90 months
- Landowner re-payment to the Department of Taxation: 90 months X \$10/mo = \$900.00

If a participant is requested to return a tax credit the SWCD will notify the Department of Taxation of the landowner's name, social security number, or tax ID number that the tax credit was issued to, the year that the tax credit was issued and the calculated re-payment amount. The SWCD will then direct the participant to send a check directly to the Virginia Department of Taxation, P. O. Box 715, Richmond, VA 23218-0715 with a letter identifying the participants name address, social security or tax identification number and year that the tax credit was utilized with a courtesy copy to the SWCD for verification.

In the case of the death of the applicant this requirement may be waived (this requires an official action of the District Board that must be recorded in the minutes; see Hardship process in the Agricultural BMP Cost-share Program Policies and Procedures Manual.

If appropriate in "hardship cases", the District board may make alternative recommendations for DCR's consideration. All requests for hardships shall be submitted in writing to the Agricultural Incentives Program Manager, and copied to the appropriate Conservation District Coordinator (CDC). When a District requests DCR's consideration of a hardship case, DCR will convene an ad hoc committee composed of at least; the regional CDC, the Agricultural Incentives Program Manager, and

another manager. The District may act as an advocate for the program participant or the participant may present his own case including documentation certifying the existence of a hardship that provides a clear reason why the participant should be relieved of his responsibility to repay the cost-shared amount requested by the District. The ad hoc committee will render its decision whether or not to grant a hardship exemption in writing to the District citing its reasoning and referencing the documentation provided. Participants will have 60 days from the date of notification to refund to the Department of Taxation the tax credit funds. The local DCR Conservation District Coordinator (CDC) must be copied on all correspondence and kept informed of any related activities.

### Granting of the Tax Credit

Final approval of practices for tax credit is the responsibility of the local Soil and Water Conservation District Board of Directors. District Boards of Directors approve BMPs for tax credits based on the total estimated cost of the BMP before installation. If a calculation of twenty-five percent of the participants out of pocket expenditures is less than the Board approved estimated tax credit when the practice is certified as complete then no further Board action is required. If the requested tax credit amount is larger than the Board approved estimated tax credit, the Board must approve the increased tax credit amount as a separate action. SWCD Directors must vote on all actions taken and record the outcome in the minutes of the meeting that such action is approved.

After the practice has been completed and certified, the local District board must have approved the appropriate tax credit amount based on the original total estimated cost or total actual cost, whichever is less. Any tax credit amount granted above the amount approved prior to BMP installation, due to cost overruns above the total estimated cost, must be legitimate cost and must be approved by the District Board and recorded in the meeting minutes.

Districts must send the applicant an **AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT CERTIFICATE** on district letterhead along with a signed copy of the VIRGINIA BMP INCENTIVES PROGRAMS CONTRACT Parts I, II and III. The **AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT CERTIFICATE** notification must follow the format of the example on page III - 11.

The applicant must use the **AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT CERTIFICATE** and/or a copy of the certificate of completion for documentation when filing a tax return.

**EXAMPLE**  
Soil and Water Conservation District  
Letterhead  
**AGRICULTURAL BEST MANAGEMENT PRACTICES  
TAX CREDIT CERTIFICATE**

NAME OF APPLICANT:

ADDRESS:

SSN or TAX ID NUMBER:

BMP INSTALLED: SL-6, Stream Exclusion with Grazing Management

CONTRACT NUMBER: 01-12-1111

INSTANCE NUMBER: 012121

COMPLETION DATE: 05/05/2012

CONSERVATION PLAN WRITTEN DATE: 01/15/2012

TOTAL APPROVED ESTIMATED COST: \$10,000.00

TOTAL ACTUAL COST OF BMP: \$11,075.00

COST-SHARE RECEIVED: \$7,500.00

AMOUNT TAX CREDIT IS TAKEN ON: \$2,500.00

*Under the provisions of Title 58.1, Chapter 3, Article 3, of the Code of Virginia, Application for the tax credit is hereby made.*

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**CERTIFICATION OF TAX CREDIT**

Approved Tax Credit: \$625.00

Reason for Tax Credit: Agricultural BMP

Approving Soil and Water Conservation District: (SWCD name)

District Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Neither the local Soil and Water Conservation District (SWCD) nor the Virginia Department of Conservation and Recreation (DCR) is providing tax advice; the program participant may wish to consult with an independent tax advisor regarding potential tax consequences.

## Questions

Questions concerning any aspect of the tax credit program that are not addressed in this manual should be directed to the appropriate DCR Conservation District Coordinator or Agricultural Incentives Program Manager.

## Other Agricultural Tax Credits

The General Assembly has authorized other tax credits to encourage the purchase and usage of certain agricultural equipment in support of soil and water conservation. The usage of these tax credits by an agricultural producer does not require issuance of a Tax Credit Certification Letter or approval of the equipment by the SWCD. SWCDs should approve appropriately written Nutrient Management Plans if required. As with any tax credit usage the taxpayer is ultimately responsible for determining that they are eligible to utilize the tax credit in compliance with instructions and regulations from the Virginia Department of Taxation. Excerpts from the Code of Virginia are provided below for reference only.

### Tax Credit for Purchase of Conservation Tillage Equipment

§ 58.1-334. Tax credit for purchase of conservation tillage equipment.

*This code section was amended for taxable years beginning on or after January 1, 2005 to read:*

- A. Any individual shall be allowed a credit against the tax imposed by § [58.1-320](#) of an amount equaling 25 percent of all expenditures made for the purchase and installation of conservation tillage equipment used in agricultural production by the purchaser. As used in this section the term "conservation tillage equipment" means a planter, drill, or other equipment used to reduce soil compaction commonly known as a "no-till" planter, drill, or other equipment used to reduce soil compaction including guidance systems to control traffic patterns that are designed to minimize disturbance of the soil in planting crops, including such planters, drills, or other equipment designed to reduce soil compaction which may be attached to equipment already owned by the taxpayer.
- B. The amount of such credit shall not exceed \$4,000 or the total amount of tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such tax year, the amount that exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.
- C. For purposes of this section, the amount of any credit attributable to the purchase and installation of conservation tillage equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.



## Tax Credit for Purchase of Precision Agricultural Equipment

§ 58.1-337. Tax credit for purchase of advanced technology pesticide and fertilizer application equipment.

A. Any individual engaged in agricultural production for market who has in place a nutrient management plan approved by the local Soil and Water Conservation District by the required tax return filing date of the individual shall be allowed a credit against the tax imposed by § [58.1-320](#) of an amount equaling twenty-five percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application. Virginia Polytechnic Institute and State University and Virginia State University shall provide at the request of the Virginia Soil and Water Conservation Board technical assistance in determining appropriate specifications for certified equipment, which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts. The equipment shall be divided into the following categories:

1. Sprayers for pesticides and liquid fertilizers;
2. Pneumatic fertilizer applicators;
3. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer applicators;
4. Manure applicators;
5. Tramline adapters; and
6. Starter fertilizer banding attachments for planters.

B. The amount of such credit shall not exceed \$3,750 or the total amount of the tax imposed by this chapter, whichever is less, in the year of purchase. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against the income taxes of such individual in the next five taxable years until the total amount of the tax credit has been taken.

C. For purposes of this section, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as providing more precise pesticide and fertilizer application by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

### **Implementation Guidance from the July 17, 1996 Soil and Water Conservation Board meeting in a section entitled:**

“Equipment certification

It will be the responsibility of the purchaser to determine if the equipment can meet these specifications. The Virginia Soil and Water Conservation Board will not be producing an approved equipment list or reviewing each request. Nor is it the responsibility of the district or any other agency staff to determine or advise the purchaser if his equipment qualifies similarly it will be the responsibility of the individual to pursue the development of a nutrient management

plan.”

DCR’s guidance to Districts is that the SWCD is only required by code language to approve a nutrient management plan for the Precision Ag. Tax Credit.

### TAX CREDIT BMPs

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
CRSL-6°	CREP Stream Exclusion with Grazing Land Management	Yes	Lin. Ft. of Stream bank Protected Av. Buffer Width	X	X	Acres	Acreage of stream bank protected and grazing improved	Length of CREP contract	SWCD
CRWP-2	CREP Stream Protection	Yes	Lin. Ft. of Stream bank Protected Av. Buffer Width	X	X	Linear Feet	Acres of stream bank protected	Length of CREP contract	SWCD
CRWQ-1	CREP Grass Filter Strip	Yes	Acres Av. Width	X (from strip area)	X (filter action)	Acres	Acres Planted plus contributing field acreage	Length of CREP contract	SWCD
CRWQ-6B	CREP Wetland Restoration	Yes	Acres	X	X	Acres	Acres converted back to wetlands	Length of CREP contract	SWCD
CRWQ-11	CREP Agricultural Sinkhole Protection	Yes	Acres	X	X	Acres	Acres Protected around sinkhole(s) and area draining into sinkhole(s)	Length of CREP contract	SWCD
FR-1	Reforestation of Erodible Crop and Pastureland	Yes	Acres	X		Ac.	Acreage planted in trees.	10 or 15 yrs.	SWCD
FR-3	Woodland Buffer Filter Area	Yes	Acres Av. Buffer Width	X		Ac.	Acreage planted to buffer.	10 or 15 yrs.	SWCD
FR-4	Woodland Erosion Stabilization	Yes	Acres	X	X	Ac.	Acreage Treated	5 years	SWCD
LE-2	Livestock Exclusion with Reduced Setback	Yes	Lin. Ft. of Stream bank Protected w/10' fence AND Lin. Ft. of Stream bank Protected w/35' fence	X	X	Ac.	Acreage where grazing is improved and the stream bank is protected behind 10' & 35' setback fence.	10 yrs.	SWCD

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
NM-3C	Split Application of Nitrogen on Corn using Pre-sidedress Nitrate Test to Determine Need for Sidedress Nitrogen	Only if participant refuses tax credit in writing	Acres			Ac.	Acreage Treated	1 year	SWCD
NM-4	Late Winter Split Application of Nitrogen on Small Grain	Only if participant refuses tax credit in writing	Acres			Ac.	Acreage Treated	1 year	SWCD
NM-5N	Precision Nitrogen Management on Cropland	Only if participant refuses tax credit in writing	Acres and/or Tests	N/A	N/A	Ac.	Acres receiving variable rate application and/or number of Test	1Year	SWCD
NM-5P	Precision Phosphorous Management on Cropland	Only if participant refuses tax credit in writing	Acres applied	N/A	N/A	Ac.	Acres receiving variable rate application	1Year	SWCD
SE-1	Vegetative Stabilization of Marsh Fringe Areas	Yes	Acres		X	Ac.	Acreage Treated	5 years	SWCD
SE-2	Shoreline Stabilization	No	Acres		X	Ac.	Acreage Treated	10 yrs.	SWCD
SL-1 (State)	Long Term Vegetative Cover on Cropland	Yes	Acres	X		Ac.	Acreage in planted crop	5 yrs to 10 yrs	SWCD
SL-3	Strip cropping Systems	Yes	Acres	X	X	Ac.	Acreage in strips *(only if Subsurface drainage installed)	5 years (*10 yrs)	SWCD
SL-3B	Buffer Stripcropping	Yes	Acres	X	X	Ac.	Acreage in field from the top of the slope to the lowest buffer strip.	5 years	SWCD

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
SL-4	Terrace System	Yes	Ft.	X	X	Ac.	Acreage in field where active erosion is reduced	10 years	SWCD
SL-5	Diversion	Yes	Ft.	X	X	Ac.	Acreage in field where the diversion reduces active erosion	10 years	SWCD
SL-6	Stream Exclusion with Grazing Land Management (No tax credit available when 100% reimbursed)	Yes	Lin. Ft. of Stream bank Protected	X	X	Ac.	Acreage where grazing is improved and the stream bank is protected.	10 years	SWCD
			Av. Buffer Width						
SL-6A	Small Acreage Grazing Systems	No	Lin. Ft. of Stream bank Protected	X	X	X	Acreage where grazing is improved and stream bank is protected.	10 years	SWCD
			Av. Buffer Width						
SL-6B	Alternative Water System	No	Acres	X		Acres	Acreage where grazing is improved	10 years	SWCD
SL-7	VACS Support for Extension of CREP Watering System(s)	Yes	Acres	X		Acres	Acreage where grazing is improved	10 years	SWCD
SL-8	Protective Cover for Specialty Crops	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage in planted cover crop	1 year	SWCD
SL-8B	Small Grain Cover Crop for Nutrient Management	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage in planted cover crop	1 year	SWCD

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
SL-8H	Harvestable Cover Crop	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage in contract	1 year	SWCD
SL-9	Grazing Land Management	Yes	Acres	X	X	Acres	Acreage treated	1 year	SWCD
SL-11	Permanent Vegetative Cover on Critical Areas	Yes	Acres	X	X	Ares	Acreage treated	5 years	SWCD
SL-11B	Farm Road, Heavy Traffic, Animal Travel lane Stabilization	No	Acres	X	X	Acres	Acreage treated	5 years	SWCD
SL-15A	Continuous No-till System	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage treated	5 years	SWCD
SL-15B	Continuous No-till Forage Production System	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage treated	5 years	SWCD
WP-1	Sediment Retention, Erosion or Water Control Structures	Yes	# of Systems	X	X (Sediment trapped or Erosion Reduced)	Acres	Acres of site	10 years	SWCD
WP-2	Stream bank Protection	Yes	Ft.		X	Acres	Acreage of stream bank treated	5 years	SWCD
			Av. Buffer Width						
WP-2A	Stream bank Stabilization	Yes	Ft.	X	X	Acres	Acreage of stream bank treated	5 years	SWCD

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
WP-2B	Stream Crossings & Hardened Access	No	# of Structures		X	Acres	Acreage of field accessing structures	5 years	SWCD
WP-2C	Stream Channel Stabilization	No	Acres of Channel Stabilized.		X	Acres	Area of stream channel stabilized	5 years	SWCD
WP-2D	Maintenance of Stream Exclusion Fencing	No	Ft.		X	Acres	Acreage between stream and fence	5 years	SWCD
			Ay Buffer Width						
WP-3	Sod Waterway	Yes	Ac.	X	X	Acres	Acreage in waterway	10 years	SWCD
WP-4	Animal Waste Control Facility	Yes	# of Systems	N/A	N/A	N/A	N/A	10 years	SWCD
WP-4B	Dairy Loafing Lot Management System	Yes	# of Systems	X	X	Acres	Acreage in planned system	10 years	SWCD
WP-4C	Composting Facility	Yes (swine & poultry)	# of Systems	N/A	N/A	N/A	N/A	10 years	SWCD
WP-4D	Soil Test in Support of Nutrient Management Plan	No	# of soil test	N/A	N/A	Acres	Acres being soil tested.	Life of nut. mgt. plan	SWCD
WP-4E	Pumps to Empty Animal Waste Structures	No	# of each	N/A	N/A	# of pumps	N/A	10 years	SWCD
WP-4F	Animal Mortality Incinerator Facility	Yes	# of Facilities	N/A	N/A	N/A	N/A	10 years	SWCD
WP-5	Storm water Retention Pond	No	# of Structures	N/A	N/A	# of Structures	Watershed drainage acreage above structure	10 years	SWCD

Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
WP-6	Agricultural Chemical & Fertilizer Handling Facility	Yes	# of Structures	N/A	N/A	N/A	N/A	10 years	SWCD
WP-7	Surface Water Runoff Impoundment for Water Quality	No	# of Structures	X	X	Acres	Watershed drainage acreage above structure	10 years	SWCD
WP-8	Relocation of Confined Feeding Operations From Environmental Sensitive Areas	No	# of Structures	X	X	Acres	Acreage of operation that was relocated	10 years	SWCD
WQ-1	Grass Filter Strips	Yes	Acres	X (Strip Area)	X (Filter Action)	Acres	Acreage of filter area plus contributing field acreage as determined by maximum slope length	5 years	SWCD
			Av. Buffer Width						
WQ-4	Legume Cover Crop	Only if participant refuses tax credit in writing	Acres	X		Acres	Acreage in planted cover crop	Annual	SWCD
WQ-5	Water Table Control Structure	Yes	# of Structures	N/A	N/A	Acres	Watershed drainage acreage above structure	10 years	SWCD
WQ-6	Constructed Wetlands	No	Acres		X	Acres	Watershed drainage acreage above structure	10 years	SWCD



Practice Number	Practice Name	Available for Cost-Share	Units Installed	S&R Erosion Reduction TONS/AC/YR)	Gross Erosion Reduction (TONS/YR)	Units Benefited	Acres Benefited	Life Span	Tech. Respon.
			Average Buffer Width						
WQ-6B	Wetland Restoration	No	Acres	X	X	Acres	Acreage converted back to wetlands	10 years	SWCD
WQ-7	Plasticulture Irrigation Water Recycling System	No	# of Systems Installed	X	X	Acres	Watershed drainage acreage above system	10 years	SWCD
WQ-9	Capping/Plugging of Abandoned Wells	No	# of Wells Capped of Plugged	N/A	N/A	Wells	N/A	10 years	SWCD
WQ-10	Integrated Pest Management	No	Acres	N/A	N/A	Acres	Acres being scouted	1 year	SWCD
WQ-11	Agricultural Sinkhole Protection	Yes	Acres			Acres	Acreage protected around sinkhole and any area draining into the sinkhole	10 years	SWCD
WQ-12	Roof Runoff Management	Yes	Linear feet of gutter	N/A	N/A	Sq. ft. of roof guttered	Acreage Treated	10 years	SWCD
			N/A						

\*If a CREP buffer is not planted but left to naturally re-generate based upon DOF recommendations, the number of acres of buffer should be reported.

° No tax credit is available for CRFR-3 and CRSL-6 when 100% cost-share payment is provided by federal and/or state cost-share payments.

Revised March, 2017