

VIRGINIA'S AGRICULTURAL BMP LOAN PROGRAM GUIDELINES

STATE WATER CONTROL BOARD

Approved December 7, 1999
Amended May 1, 2005

VIRGINIA'S AGRICULTURAL BMP LOAN PROGRAM INITIATIVE AND ENABLING LEGISLATION

In order to reduce agriculture non point source pollution of Virginia's waters, the Virginia General Assembly in its 1999 session amended Chapter 22 of the Code of Virginia by expanding the activities of the Virginia Water Facilities Revolving Fund (VWFRF). Low interest loan financing is now available to the Commonwealth's Producers (farmers and growers) for the implementation of specific agricultural best management practices.

' 62.1-229.1. Loans for agricultural best management practices

Loans may be made from the Fund, in the board's discretion, to an individual for the construction of facilities or structures to implement agricultural best management practices to prevent pollution of state waters, to a local government which has developed a low-interest loan program to provide loans or other incentives to facilitate the construction of such facilities or structures, or to a financial institution working with a local government to establish such a program. The Board shall develop guidelines for the administration of such loans and shall determine the terms and conditions of any loan from the Fund.

The purpose of this Agricultural BMP Loan initiative is to provide a source of low interest financing which will encourage the use of specific best management practices which reduce or eliminate the impact of Agricultural Nonpoint Source (NPS) pollution on Virginia waters. The goal of the program is improve water quality in the Commonwealth.

FUNDING AVAILABILITY

The initial funding to implement the Ag BMP low interest loan program was provided by a set-aside of \$5,000,000 from the Virginia Wastewater Revolving Loan Fund (VWRLF) program's fiscal year 2000 revenue. The VWRLF loan program was established in 1988 to create a self perpetuating source of low interest financing which would be available to Virginia municipalities for improving publicly owned wastewater treatment works and collection systems. On behalf of the State Water Control Board, DEQ developed and continues to administer the VWRLF program. DEQ's Virginia Ag BMP loan program is a subset of the parent VWRLF loan program and is intended to create a continuing source of low interest financing that will be available to Virginia agricultural producers to assist them in their efforts to reduce agricultural non point source pollution. Unlike other assistance programs, the Ag BMP loan program is not dependent on legislative appropriations for its fund availability. All repayments of principle and interest from previous Ag BMP loans are returned to the Fund and used to provide additional loans to other Virginia farmers. In addition to the revenue available from repayments, DEQ will request that the State Water Control Board (SWCB) consider making additional funding set-asides from the VWRLF

revenue as deemed necessary in order to meet Virginia's agricultural non point source pollution reduction needs.

WHO'S ELIGIBLE TO APPLY

Any Virginia agricultural producer wishing to implement eligible Best Management Practices in order to reduce the amount of polluted agricultural runoff entering Virginia waters adjacent to their existing agricultural operation will be considered by DEQ for Ag BMP low interest loan assistance. Producers will be considered for low interest loan assistance whether or not they choose to participate in any other State and/or Federal agricultural assistance program.

ACRONYMS AND DEFINITIONS

Definitions of terms and acronyms used in this guidance document as they apply to the Virginia Agricultural BMP Loan Program are:

Ag BMP	Agricultural Best Management Practice
BOARD or SWCB	State Water Control Board
DEQ	Department of Environmental Quality
DCR	Department of Conservation and Recreation
"Fund"	Virginia Water Facilities Revolving Fund
"IN KIND SERVICES"	Labor and/or materials provided by the Producer or their farm employees and/or rental fees for farm equipment owned by the Producer
"LONG TERM"	loan need the amount remaining after all approved federal, state and local grant funds and practice incentive payments are deducted from the total estimated cost of the practice(s).
"incurred cost"	eligible expenses for which the loan recipient has been invoiced or amounts which are due and stipulated in a contract for labor, material or professional services.
NPS Non-Point Source	Pollution from runoff of agricultural chemicals, animal waste, stormwater, fertilizer and/or erosion
NRCS	United States Department of Agriculture, Natural Resources Conservation Service
Producer	a landowner, agent, or operator of record engaged in agricultural production for market and having control of the property on which the practice will be located
SWCD	Soil and Water Conservation District
VRA	Virginia Resources Authority
VWFRF	Virginia Water Facilities Revolving Fund

LOAN AMOUNTS

Minimum Loan Amount

The minimum allowable loan amount is \$5,000. To be considered for funding, a loan request must demonstrate a "long term" loan need of not less than \$5,000. Loan funded projects fall into two broad categories which are: 1) projects where both loan and federal/state grant funds are involved and 2) projects where only Ag BMP loan funds are involved. The first step in determining if your proposed BMP project meets the "long term" loan need requirement is to decide which of the two categories fits your project.

IF YOUR PROPOSED PRACTICES HAVE BEEN APPROVED FOR ANY FEDERAL, STATE AND/OR LOCAL GRANT FUNDS, THE FOLLOWING METHOD SHOULD BE USED TO DETERMINE "LONG TERM" LOAN NEED:

Add the estimated cost of each loan eligible practice for which you intend to request low interest loan assistance. Subtract the amount of all federal, state and local grant funds that have been approved for the practices. If one of the grant programs providing funds for your project is the Conservation Reserve Enhancement Program (CREP), you must also subtract the amount of the program's Practice Incentive Payment (PIP). Then subtract the amount of all "in-kind" services for labor, equipment or material you will provide. If you intend to apply funds of your own toward the project cost then you also need to subtract that amount. The result, after making these deductions, constitutes your "long term" loan need under the Ag BMP loan program. If the figure is greater than \$5,000 your project is eligible for loan assistance from the program.

IF THERE IS NO FEDERAL, STATE AND/OR LOCAL GRANT PARTICIPATION IN THE PRACTICES FOR WHICH YOU ARE REQUESTING LOAN FUNDING, THE FOLLOWING METHOD SHOULD BE USED TO DETERMINE "LONG TERM" LOAN NEED:

Add the estimated cost of each loan eligible practice for which you intend to request low interest loan assistance. Subtract "in-kind" services for labor, equipment or material that is included in the estimated cost. Also subtract the amount of any of your own funds that you intend to use for the practice(s). The remainder constitutes your "long term" loan need under the Ag BMP loan program. If the figure is greater than \$5,000 your project is eligible for loan assistance from the program.

Maximum Loan Amount

There has been no maximum loan amount established for the Ag BMP loan program. However, funding can only be authorized for the expenses relating to implementation of the eligible practice(s) and the loan amount cannot be greater than the total estimated cost of implementing the practice(s).

Eligible Loan Amount

Virginia agricultural producers may request loan assistance from the DEQ Ag BMP low interest loan program in order to finance their portion of implementation expenses under a cost share grant agreement or up to 100% of loan eligible expenses for approved BMPs if they are not participating in another funding program. Where Cost Share funds will be provided at completion of one or more costly practices an Ag BMP low interest loan may be approved for the total cost of the proposed practice(s). In such cases, when the Cost Share

funds become available they must immediately be applied to retirement of the Producer's loan obligation.

LOAN REPAYMENT PERIOD

The total Ag BMP loan amount, life of the structure or facility being financed, and the level of payment which the individual can meet without undue financial stress are factors which are considered in setting the loan repayment period. Based on these factors, repayment periods may range from 1 to 10 years but will not exceed the standard useful life of the practice being funded. In special cases, loan repayment periods greater than 10 years may be authorized if these factors warrant an extended repayment period. DEQ will extend repayment periods beyond the standard practice life only in instances where it is necessary in order for the Producer to implement a practice or practices which result in a significant water quality benefit.

ELIGIBLE PRACTICES FOR FINANCING BY PROGRAM

Virginia's legislation specifically limits Ag BMP low interest loan assistance to facilities and structures that are necessary for Producers to implement agricultural best management practices. The following list of Best Management Practices pertain to construction of facilities or structures as prescribed by statute and are specific practices for water quality protection. These are the practices that are eligible for loan assistance through the Fund's Ag BMP loan program.

- SL-4** TERRACE SYSTEM
- SL-5** DIVERSION
- SL-6** GRAZING LAND PROTECTION
- SL-6B** ALTERNATIVE WATER SYSTEM
- SL-11B** ANIMAL TRAVEL LANE STABILIZATION
- WP-1** SEDIMENT RETENTION, EROSION OR WATER CONTROL STRUCTURES
- WP-2** STREAM PROTECTION
- WP-2A** STREAMBANK STABILIZATION
- WP-2B** STREAM CROSSING & HARDENED ACCESS
- WP-2C** STREAM CHANNEL STABILIZATION
- WP-4** ANIMAL WASTE CONTROL FACILITY
- WP-4B** LOAFING LOT MANAGEMENT SYSTEM
- WP-4C** COMPOSTER FACILITIES
- WP-4E** ANIMAL WASTE STRUCTURE PUMPING EQUIPMENT
- WP-5** STORMWATER RETENTION POND
- WP-6** AGRICULTURAL CHEMICAL & FERTILIZER HANDLING FACILITY
- WP-7** SURFACE WATER RUNOFF IMPOUNDMENT FOR WATER QUALITY
- WP-8** RELOCATION OF CONFINED FEEDING OPERATIONS

- WQ-5** WATER TABLE CONTROL STRUCTURE
- WQ-6** CONSTRUCTED WETLANDS
- WQ-6B** WETLAND RESTORATION
- WQ-8** FUEL STORAGE TREATMENT

A BRIEF DESCRIPTION OF THE AFOREMENTIONED PRACTICES AND THEIR PURPOSES IS ATTACHED TO THE PRE-APPLICATION FORM INCLUDED IN APPENDIX A OF THESE GUIDELINES.

INTEREST RATE AND LOAN FEES

Loan assistance will be made available at an effective rate of 3% per year. The repayment term may be up to 10 years, depending on the design life of the practice(s) being funded. A loan servicing fee to cover the Farm Credit financial analysis, loan recommendation and incidental loan servicing activities for an Ag BMP loan will be added to each loan request. The servicing fee for loans with a "long term" need of less than \$25,000 is \$500 and the fee for loans with a "long term" need of \$25,000 or more is \$1,000. In order to further reduce the financial burden on Virginia producers, the VWFRF loan program, not the Producer, will absorb this fee. The servicing fee will be included in the loan amount, but the Producer's loan payments will be the same as a 3% loan on the amount borrowed before the fee was added. The following Ag BMP loan example is based on a ten-year term, semiannual payments, and a Producer loan need of \$20,000.

	Amount Borrowed	Interest Rate	Number of Payments	Semi-annual Payment	Total Payments
	\$20,000.00	3.0000%	20	\$1,164.91	\$23,298.20
	\$20,500.00	2.5015%	20	\$1,164.91	\$23,298.20

Row □ shows the semiannual (twice a year) payment and the total amount that would be repaid if a Producer borrowed \$20,000 without the \$500 loan servicing fee. The VWFRF loan program absorbs the servicing fee by adjusting the interest rate as shown in Row , of the table. In Row ,, the \$500 loan-servicing fee has been included in the amount borrowed but the interest rate has been adjusted to 2.5015% and the semiannual and total payments are the same as the no fee example in Row □. In order to pay the loan-servicing fee for the Producer, the VWFRF program will adjust the interest rate on each Ag BMP loan in this manner. The actual interest rate on loans will vary according to the loan term and amount but the payments will always be equivalent to 3% interest on the loan need, not including the service fee.

ELIGIBLE LOAN EXPENSES

Authorized loan amounts will be restricted to cost associated with services, labor and materials necessary to complete or implement the approved BMP(s) and disbursements from the approved loan will be made as the cost of implementation or construction is incurred by the borrower. The following expenses may also be included when determining

the allowable amount of an Ag BMP low interest loan and can be reimbursed from loan proceeds after the cost is incurred.

- an Ag BMP loan servicing fee at the time of loan closing and other cost incidental to loan closing
- cost associated with professional services for any planning, design, or construction services needed to implement the approved BMP
- contractor(s) invoices for payments due or payments which are due to contractor(s) as specified in a binding contract relating to the approved BMPs
- invoiced cost of materials incorporated in the work
- invoiced cost for labor used to install the practice
- other related cost incurred as necessary and as approved by DEQ.

IN ELIGIBLE LOAN EXPENSES

The following expenses cannot be included when determining the allowable amount of an AgBMP low interest loan or reimbursed from loan proceeds.

- "IN KIND SERVICES" cannot be included in the loan amount or reimbursed from the Ag BMP loan proceeds.
- cost related to farm production equipment
- cost associated with the purchase of land, right-of-ways or easements cannot be included in the loan amount or reimbursed from loan proceeds
- there can be no duplication of payment. Cost, which have been paid by any federal, state, local, or other grant sources cannot be included in the loan amount or reimbursed from loan proceeds. In the event that grant funds are received for work previously paid for with loan funds, the grant funds must be applied to reduction of the loan debt.

AG BMP LOAN PROCESS OVERVIEW

PRE-APPLICATION - The Pre-application (Appendix A) is a short questionnaire which provides the name of the Producer, location of the farm, specific BMP(s) proposed for loan financing, estimated total cost of the practice(s), and the applicant's estimate of the amount of loan assistance that will be required. Virginia Agricultural BMP Loan Program Guidelines booklets which include the Pre-application form are available to Virginia agricultural producers at their local SWCD offices, DEQ and DCR regional offices, and at Farm Credit offices.

The Pre-application documents the Producer's intent to apply for a DEQ Ag BMP low interest loan, allows DEQ to verify that the intended practices are loan eligible, and provides planning data used by DEQ to estimate the number of loans and total amount of loan funds that will be required in a given period. Loan Pre-applications do not need to be submitted by any specific date and there is no scheduled solicitation of applications for Ag BMP loans.

After a Pre-application is received by DEQ, a member of the Construction Assistance Program (CAP) staff will contact the applicant and arrange a meeting on the farm. This "Initial Meeting" provides an opportunity for the CAP staff to gain a better understanding of what the project will involve, determine if any part of the proposed practice(s) are not loan eligible, explain what happens next in the loan review and approval process and answer any questions the applicant may have. DEQ will meet monthly with DCR to obtain additional information regarding applicants and practices being considered and to prioritize applicants for funding. (see RANKING OF APPLICATIONS section below)

At any time during the year a Virginia Producer may take the first step in applying for an Ag BMP low interest loan from DEQ by completing the Pre-application and sending it to DEQ at the address below.

**Mr. Walter A. Gills
Construction Assistance Program
Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240**

RANKING OF APPLICATIONS - DEQ will prioritize applications for loan assistance on a monthly basis. Applications for practices which are expected to provide the greatest water quality benefit will be given the highest funding priority. Applications considered to impact segments of Impaired, Threatened or Nutrient Enriched waters will receive a HIGH funding priority. Applications affecting an area with a high NPS designation, an impoundment, a natural trout stream, a designated scenic river, or that demonstrate another recognizable water quality benefit will be given a MEDIUM priority rating. All applications which do not meet the criteria for a HIGH or MEDIUM prioritization will receive a LOW ranking. This prioritization process is done once per month, generally during the last week of the month. Applications received by the 20th of each month will be considered in that month's applicant group.

Contingent on availability of funds, all projects that receive a HIGH or MEDIUM priority ranking and are ready to proceed to construction or the implementation phase will be recommended for a conditional funding authorization. The conditions of that authorization are that DEQ receives verification that the applicant has an acceptable conservation plan and that DEQ receives a satisfactory loan recommendation from the Farm Credit association.

HIGH and MEDIUM priority projects that cannot proceed to construction or the implementation phase within a six month timeframe will be deferred and may be reconsidered for funding at a later date. In order to be reconsidered, the applicant will have to resubmit an application when the project has moved to within six months of construction or implementation.

Because they demonstrated no recognizable water quality benefit, loan funding will be denied for all proposed projects that received a LOW priority ranking.

CONSERVATION PLANS

PLANNING FOR PRACTICES THAT ARE NOT ANIMAL WASTE PRACTICE(S) - Prior to funding approval for projects that do not include animal waste practices, the loan program requires that the applicant have a conservation plan that has been approved by the local Soil & Water Conservation District (SWCD) and contains the proposed practice(s) and an implementation schedule for the specific site or field. Several types of plans qualify as a conservation plan for Ag BMP loan projects which do not include animal waste practices. If the proposed practice is not related to animal waste and a schedule is already in one of the following commonly used plans, that plan can be used to fulfill the loan program's conservation planning requirement.

- Soil Erosion Plans (NRCS standards, including EQIP, WHIP or Food Security Act plans)
- Nutrient Management Plans (DCR standards)

- Ag Stewardship Plan (VDACS standards)
- Chesapeake Bay Plan (CBLAD standards)

If the proposed practice(s) are not included in an existing plan, appropriate government agencies such as the local Soil and Water Conservation District (SWCD), Natural Resources Conservation Service (NRCS) or Department of Conservation & Recreation (DCR) can prepare one at no charge to the Producer. If the Producer chooses to have a private planner develop the plan, the fee can be included in the loan amount. The type of plan used is up to the Producer so long as it identifies the practice and provides an installation schedule but practices located within the Chesapeake Bay Preservation Act, are required to provide the Chesapeake Bay Plan. It's important to recognize that the implementation schedule applies only to the specific field or location of the proposed BMP. While "Whole Farm" etc. plans are not required to fulfill conservation plan requirements, the development of plans which address additional water quality issues is encouraged.

PLANNING FOR ANIMAL WASTE PRACTICES - Prior to approving loan funding of projects that involve animal waste practices, the loan program requires that the applicant obtain a Nutrient Management Plan (NMP) which was prepared by a DCR certified planner. A NMP which was prepared by a DCR certified planner does not require SWCD approval in order to fulfill the loan program conservation planning requirement. If the Producer chooses to have a DCR certified private planner develop the Nutrient Management Plan, the fee can be included in the loan amount.

RIGHT OF APPEAL - Any producer who believes that their application for Ag BMP low interest loan assistance was unfairly denied by DEQ may appeal the decision before the State Water Control Board (SWCB). To initiate the appeal process, the applicant must first submit a letter to DEQ that expresses intent to appeal DEQ's decision regarding the loan application. The letter must include sufficient detail to identify the application and state the grounds for the appeal. Upon receipt of the notice of intent to appeal, DEQ will review the case and provide the producer with a date on which the SWCB will hear the appeal. At the appointed time, the applicant may present the case before the State Water Control Board. The appeal process is not applicable to actions taken by DEQ that were based on the result of credit evaluations and the subsequent loan recommendations which were provided to DEQ by Farm Credit.

CONDITIONAL LOAN AUTHORIZATION AND CREDIT REVIEW - Shortly after the prioritization process is completed, each applicant who submitted a request for loan assistance for practice(s) that resulted in a HIGH or MEDIUM priority and were ready to proceed will receive a Conditional Loan Authorization letter from DEQ. That letter states the amount of loan funds that have been authorized, contingent on two conditions being fulfilled prior to DEQ's final approval of the loan. The first condition is that the applicant will provide DEQ with evidence that they have a conservation plan in place that meets the loan program requirement. The second condition is that DEQ receives a satisfactory credit review and loan recommendation from the Farm Credit association. Included with the Conditional Loan Authorization letter will be two financial forms. One is the Virginia Agricultural BMP Loan Program Application for Loan and the other is the Financial Information worksheet. It's very important that applicants who are selected for funding enter the credit review process in a timely manner. As soon as possible after receiving a Conditional Loan Authorization Letter, the applicant should complete the two financial forms and submit them to their local Farm Credit office. Once the Farm Credit office has received the completed financial information forms and any additional financial information that was requested from the applicant, they will conduct the appropriate underwriting analysis. Based on the result of that financial analysis, Farm Credit will provide DEQ with a recommendation for approval or denial of the loan. Recommendations that DEQ approve loans will also specify any collateral that Farm Credit has established as appropriate security for the loan.

DESIGN - Many practices that will be financed with loan funds will require design documents to be produced, especially those practices involving construction of animal waste control facilities. The design documents usually consist of a set of specifications and construction drawings, which demonstrate that the practice or practices meet, at least, the minimum standards established by NRCS. If the Producer elects to hire a private consultant to prepare the design documents the design fee will be eligible for reimbursement from loan proceeds. Upon completion of the design, the Producer needs to provide DEQ with a copy of the design document(s) and the most recent estimate of the cost of implementing the practice(s).

LOAN APPROVAL - Once a satisfactory credit summary is provided to DEQ by Farm Credit, DEQ will work with the applicant to determine if more recent estimated cost information, based on construction quotes and/or other procurement information, is available and if the loan amount needs to be adjusted. After consideration of the loan recommendation from Farm Credit and verification of the conservation plan, DEQ will finalize the terms and conditions of the loan and provide the applicant and Farm Credit with authorization to execute the loan agreement. The authorization will include the amount and term of the loan as well as a list of any special conditions that are applicable.

LOAN AGREEMENT - After receipt of authorization from DEQ, Farm Credit will, on behalf of the state, execute a loan agreement with the Producer. At minimum the loan agreement will specify the loan amount, interest rate, repayment period, loan security arrangements and any special conditions which were stipulated by DEQ. The loan agreement will also require the owner to operate and maintain the facility or structure constructed with the loan funds for the life of the loan and utilize the facility for its Ag BMP intended use. After receipt of a copy of the signed loan documents, DEQ will authorize VRA to transfer the loan funds to the Ag BMP Disbursement Account which is maintained by the Farm Credit office. For most projects the authorized transfer of funds will be the lump sum total of the loan but for larger projects, involving longer construction times, DEQ may elect to make several transfers based on the anticipated construction schedule.

CONSTRUCTION AND DISBURSEMENT OF LOAN FUNDS - Loan funds are disbursed to the loan recipient on a reimbursement basis, i.e. after cost have been incurred. Farm Credit may disburse loan funds to the Producer only upon written authorization from DEQ. Therefore, when loan recipients have incurred expenses which are eligible for payment from loan funds it is necessary for them to submit a Request for Disbursement of Ag BMP Loan Funds form to DEQ and attach copies of the loan eligible invoices. Upon receipt of the Producer's request for disbursement, a Construction Assistance Program (CAP) staff person will contact the Producer and arrange a visit to the project site. During the disbursement site visit the CAP representative will verify that the invoices represent work and/or material provided for the loan eligible BMP. After the disbursement site visit the CAP representative will e-mail the DEQ Central Office a site visit memorandum. DEQ will then authorize Farm Credit to disburse the eligible amount of loan funds to the Producer. The first disbursement will also authorize the payment of the loan servicing fee to Farm Credit. Usually the disbursement is authorized within 3 to 5 days from the date DEQ receives the request for disbursement.

CONSTRUCTION COMPLETION AND FINAL DISBURSEMENT - Once construction activities are complete the Producer will request a final inspection of the practice(s) which were financed with Ag BMP loan proceeds. As soon as possible after receiving the request for a final inspection, a DEQ Construction Assistance Program representative will do an onsite review of the practice(s) to determine that the loan project is complete and meets the minimum standards set forth in the plans and specifications. Based on a satisfactory

final inspection, the Producer may send the request for final disbursement of loan funds to DEQ in Richmond.

LOAN AND FUND MAINTENANCE - The Farm Credit office will collect repayments on Ag BMP low interest loans for the term specified in the financing agreement. Once every 3 months Farm Credit will return all accumulated repayments and any interest earned to the VRA for redeposit in the Commonwealth's Ag BMP loan fund.

LOAN DEFAULT - If collection attempts by Farm Credit are unsuccessful and a payment becomes 90 days past due, the defaulted loan will be returned to the Fund for collection. DEQ and VRA will take all appropriate measures, including legal actions, which are necessary to collect the balance of the loan. On loans with payments 90 days or more past due, appropriate interest, late payment charges and/or the cost associated with legal or collection services necessary to collect the balance will be added to the balance due from the borrower and any security provided for the loan may be forfeited.