

VIRGINIA WATER RESOURCES RESEARCH CENTER

A Practical Guide to Natural Resource Stewardship Programs in Virginia



EDUCATIONAL REPORT



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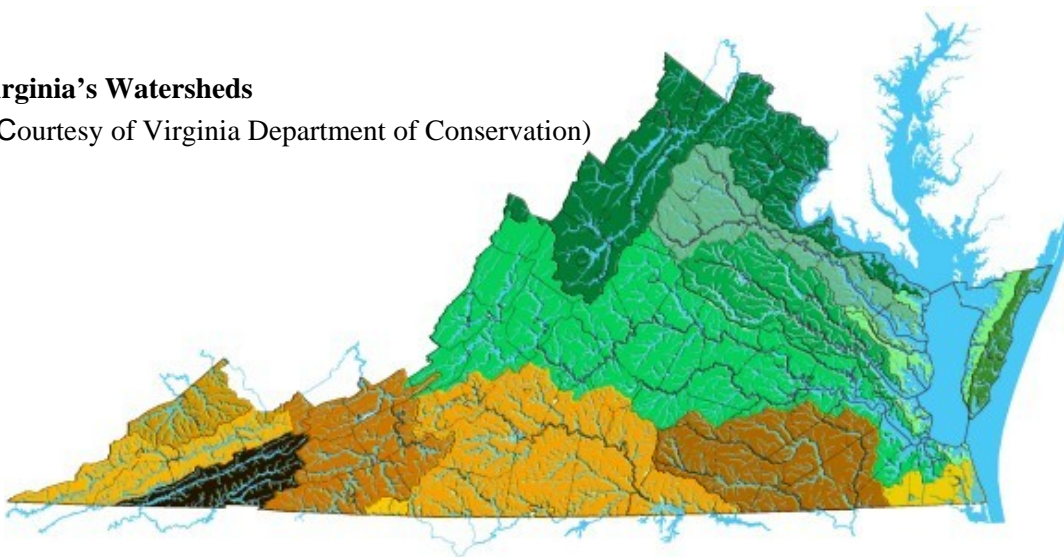
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A PRACTICAL GUIDE TO NATURAL RESOURCE STEWARDSHIP PROGRAMS IN VIRGINIA

Virginia's Watersheds

(Courtesy of Virginia Department of Conservation)



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Executive Summary

The Service Training for Environmental Progress Program (Virginia STEP) at the Virginia Water Resources Research Center placed an intern in Summer 2003 with the Virginia Agriculture and Nature Center (Ag./Nature Center) in McGaheysville (Rockingham County). The Ag./Nature Center was in the process of developing a comprehensive, public educational center on current agricultural practices and environmental stewardship in agricultural areas. The STEP intern's main objective was to research and compile technical, funding, and educational resources to help the Ag./Nature Center develop the environmental stewardship program. The intern conducted Internet research, interviewed state agency staff, and met with various community groups to develop *A Practical Guide to Natural Resource Stewardship for Rockingham County*. That manual was designed to help the agricultural community in the Shenandoah Valley area find funding and technical assistance to deal with water-quality issues on their property and in their watershed. The current publication broadens the information for statewide application.

Introduction

This manual is a guide to help farmers find funding or technical assistance to implement practices suggested for maintaining or improving water quality. The document also includes an introduction to conservation easements and other voluntary land-conservation tools and sections on Best Management Practices (BMPs) for water stewardship. The authors hope this manual will provide a guide that will help farmers or other landowners find programs that fit their particular situation.

This first draft of this report was done in Summer 2003 by Nathan Mitchell as a project for the Virginia Service Training for Environmental Progress (Va. STEP) program. STEP is a program of the Virginia Water Resources Research Center (Water Center).

In Spring 2004, Lauren LeBarre, a Virginia Tech English Department intern at the Water Center, took Mr. Mitchell's STEP report, written specifically for Rockingham County, Virginia, and generalized it for use across Virginia. Following her revision, completed in May 2004, the text now includes the following sections: Programs and Opportunities for Funding; Other Organizations for Technical or Financial Assistance; Primer on Conservation Easements, Land Conservation Tax Considerations, and Agricultural/Forestral Districts¹; Types of Assistance Available for Virginia Agricultural Best Management Practices (BMPs); and Suggested Best Management Practices (BMPs) for Specific Environmental Problems.²

In late 2005 and early 2006, Alan Raflo made revisions to Ms. LeBarre's draft and checked the contact information and Internet sites listed to be sure they were still current.

Much of the text of this document was taken from technical documents and Internet sites that give more details, including in some cases step-by-step instructions for applying for funding. The authors of this document have endeavored to give full credit to these original sources and not to reproduce information in any manner that would infringe upon any copyrights.

¹ In Mr. Mitchell's first version of this report, this section contained a short description of Purchase of Development Rights (PDR) programs. The current version omits the PDR information. For information on PDR programs, we suggest *A Model Purchase of Development Rights (PDR) Program For Virginia*, by the Virginia Department of Agriculture and Consumer Services' Farmland Preservation Task Force, June 2004; available online at www.vdacs.virginia.gov/pdf/files/pdf04.pdf. The publication lists other sources of information, including contacts in the six Virginia localities with PDR programs (as of January 2004).

² The current report also omits a section from the first version that was entitled "Easy Things You Can Do to Protect Natural Resources."

Programs and Opportunities for Funding

This section lists key federal and state programs for funding and otherwise assisting various activities to conserve, protect, or restore natural resources in agricultural or forest lands. All information and quotations in this section were taken from the Internet sites listed for each program or agency (all Internet addresses were functional as of December 2005). More information about these programs is available from local or state offices of the agencies listed for each program.

Please note that the amounts of money available under any of the funding programs can change from year to year because of subject federal or state budget changes.

Conservation Reserve Program (USDA Farm Service Agency)

www.fsa.usda.gov/dafp/cepd/crp.htm

“The Conservation Reserve Program (CRP) is a voluntary program for agricultural landowners. Through CRP, you can receive annual rental payments and cost-share assistance to establish long-term, resource conserving covers on eligible farmland.

“The Commodity Credit Corporation (CCC) makes annual rental payments based on the agriculture rental value of the land, and it provides cost-share assistance for up to 50 percent of the participant’s costs in establishing approved conservation practices. Participants enroll in CRP contracts for 10 to 15 years.

“The program is administered by the CCC through the Farm Service Agency (FSA), and program support is provided by Natural Resources Conservation Service, Cooperative State Research and Education Extension Service, state forestry agencies, and local Soil and Water Conservation Districts.”

Conservation Reserve Enhancement Program (CREP) (USDA Farm Service Agency)

www.fsa.usda.gov/dafp/cepd/crep.htm

“An offspring of the Conservation Reserve Program (CRP), CREP is a voluntary program for agricultural landowners. Unique state and federal partnerships allow you to receive incentive payments for installing specific conservation practices. Through the CREP, farmers can receive annual rental payments and cost-share assistance to establish long-term, resource conserving covers on eligible land.”

Conservation Reserve Enhancement Program (CREP) in Virginia

www.dcr.virginia.gov/sw/crep.htm

In Virginia, CREP is “one of Virginia's most active water quality efforts. The program aims to improve Virginia's water quality and wildlife habitat by offering financial incentives, cost-share, and rental payments to farmers who voluntarily restore riparian buffers, filter strips, and wetlands through the installation of approved conservation practices.... With an initial budget of \$91 million in federal and state funds, this is Virginia's most well funded conservation program ever. CREP applications will be accepted at Farm Service Centers within CREP eligible areas until Dec. 31, 2007.

“Virginia CREP is divided into two regions. The *Chesapeake Bay CREP* targets Virginia's entire bay watershed and calls for the planting of 22,000 acres of riparian buffer and filter strips as well as 3,000 acres of wetland restoration. The *Southern Rivers CREP* targets watersheds outside the bay drainage basin and will establish 13,500 acres of riparian buffer and filter strip plantings and 1,500 acres of wetland restoration.”

Conservation Security Program (USDA National/Resources Conservation Service)

www.va.nrcs.usda.gov/programs/CSP2006.htm

“The Conservation Security Program (CSP) is a voluntary program that provides financial and technical assistance for the conservation, protection, and improvement of soil, water, air, energy, plant and animal life, and other conservation purposes on Tribal and private lands. The program provides payments for producers who practice good stewardship on their agricultural lands and incentives for those who want to do more. The program is designed to reward the best conservation stewards of the most environmentally sensitive areas in targeted watersheds.”

CSP is offered each year in selected watersheds (as many as funding allows and on a rotational basis). In 2005, 207 Virginia farmers had CSP contracts (worth \$1.3 million) in the South Fork Shenandoah, Lower Rappahannock, and Mattaponi watersheds. In 2006, the eligible Virginia watersheds are the North Fork Shenandoah and the Great Wicomico-Piankatank.

More information is available from your local USDA Service Center.

Emergency Watershed Protection (USDA National/Resources Conservation Service)

www.nrcs.usda.gov/programs/ewp/

“The purpose of the Emergency Watershed Protection (EWP) program is to undertake emergency measures, including the purchase of flood plain easements, for runoff retardation and soil erosion prevention to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood or any other natural occurrence is causing or has caused a sudden impairment of the watershed.

“It is not necessary for a national emergency to be declared for an area to be eligible for assistance. Program objective is to assist sponsors and individuals in implementing emergency measures to relieve imminent hazards to life and property created by a natural disaster. Activities include providing financial and technical assistance to remove debris from streams, protect destabilized streambanks, establish cover on critically eroding lands, repairing conservation practices, and the purchase of flood plain easements. The program is designed for installation of recovery measures.”

Environmental Quality Incentives Program (USDA National Resources Conservation Service)

www.nrcs.usda.gov/programs/eqip/

“The Environmental Quality Incentives Program (EQIP) was reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill) to provide a voluntary conservation program for farmers and ranchers that promotes agricultural production and environmental quality as compatible national goals. EQIP offers financial and technical help to assist eligible participants install or implement structural and management practices on eligible agricultural land.

“EQIP offers contracts with a minimum term that ends one year after the implementation of the last scheduled practices and a maximum term of ten years. These contracts provide incentive payments and cost-shares to implement conservation practices. Persons who are engaged in livestock or agricultural production on eligible land may participate in the EQIP program. EQIP activities are carried out according to an environmental quality incentives program plan of operations developed in conjunction with the producer that identifies the appropriate conservation practice or practices to address the resource concerns. The practices are subject to NRCS technical standards adapted for local conditions. The local conservation district approves the plan.

“EQIP may cost-share up to 75 percent of the costs of certain conservation practices. Incentive payments may be provided for up to three years to encourage producers to carry out management practices they may not otherwise use without the incentive. However, limited resource producers and

beginning farmers and ranchers may be eligible for cost-shares up to 90 percent. Farmers and ranchers may elect to use a certified third-party provider for technical assistance. An individual or entity may not receive, directly or indirectly, cost-share or incentive payments that, in the aggregate, exceed \$450,000 for all EQIP contracts entered during the term of the Farm Bill.”

Farm and Ranch Lands Protection Program (USDA National Resources Conservation Service)

www.nrcs.usda.gov/programs/frpp/

“The Farm and Ranch Land Protection Program (FRPP) provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses. Working through existing programs, USDA collaborates with State, tribal, or local governments and non-governmental organizations to acquire conservation easements or other interests in land from landowners. USDA provides up to 50 percent of the fair market easement value.

“To qualify, farmland must be part of a pending offer from a State, tribe, or local farmland protection program; be privately owned; have a conservation plan for highly erodible land; be large enough to sustain agricultural production; be accessible to markets for what the land produces; have adequate infrastructure and agricultural support services; and have surrounding parcels of land that can support long-term agricultural production. Depending on funding availability, proposals must be submitted by the eligible entities to the appropriate NRCS State Office during the application window.”

Five Star Restoration Grants (U.S. Environmental Protection Agency)

www.epa.gov/owow/wetlands/restore/5star/

“The Five Star Restoration Program brings together students, conservation corps, other youth groups, citizen groups, corporations, landowners and government agencies to provide environmental education and training through projects that restore wetlands and streams. The program provides challenge grants, technical support and opportunities for information exchange to enable community-based restoration projects. Funding levels are modest, from \$5,000 to \$20,000, with \$10,000 as the average amount awarded per project.”

(More information on the U.S. EPA is included in the next section of this report.)

Forest Land Enhancement Program (USDA Forest Service)

www.fs.fed.us/spf/coop/programs/loa/flep.shtml

“The Forest Land Enhancement Program (FLEP) was part of Title VIII of the 2002 Farm Bill. FLEP replaces the Stewardship Incentives Program (SIP) and the Forestry Incentives Program (FIP). FLEP is optional in each State [it is implemented in Virginia] and is a voluntary program for non-industrial private forest (NIPF) landowners. It provides for technical, educational, and cost-share assistance to promote sustainability of the NIPF forests.

“FLEP is available for all NIPF land owners. The cost-share practices are limited to the treatment of 1,000 acres per year with an aggregate payment not to exceed \$100,000 for the life of this Farm Bill. A waiver for the treatment of up to 5,000 acres is available if significant public benefit is shown. The waiver is granted through the State Forester and approved by the Regional Forester. There is no limit to the amount of forest land owned by an individual as long as the person qualifies as and NIPF owner.”

For information about FLEP in a given state, contact the state’s forestry agency; in Virginia, this is the Department of Forestry, whose Web site www.dof.virginia.gov.

State foresters for other states can be found on the National Association of State Foresters Web site, www.stateforesters.org.

Forest Legacy Program (USDA Forest Service)

www.fs.fed.us/spf/coop/programs/loa/flp.shtml

“The Forest Legacy Program (FLP), a federal program in partnership with states, supports state efforts to protect environmentally sensitive forest lands. Designed to encourage the protection of privately owned forest lands, FLP is an entirely voluntary program. To maximize the public benefits it achieves, the program focuses on the acquisition of partial interests in privately owned forest lands. FLP helps the states develop and carry out their forest conservation plans. It encourages and supports acquisition of conservation easements, legally binding agreements transferring a negotiated set of property rights from one party to another, without removing the property from private ownership. Most FLP conservation easements restrict development, require sustainable forestry practices, and protect other values.

“Participation in Forest Legacy is limited to private forest landowners. To qualify, landowners are required to prepare a multiple resource management plan as part of the conservation easement acquisition. The federal government may fund up to 75 percent of program costs, with at least 25 percent coming from private, state, or local sources. In addition to gains associated with the sale or donation of property rights, many landowners also benefit from reduced taxes associated with limits placed on land use.”

Grassland Reserve Program (USDA Natural Resources Conservation Service, Farm Service Agency, and Forest Service)

www.nrcs.usda.gov/programs/GRP/

“The Grassland Reserve Program (GRP) is a voluntary program offering landowners the opportunity to protect, restore, and enhance grasslands on their property. Section 2401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) amended the Food Security Act of 1985 to authorize this program. The Natural Resources Conservation Service, Farm Service Agency, and Forest Service [coordinate] implementation of GRP, which helps landowners restore and protect grassland, rangeland, pastureland, shrubland, and certain other lands, and provides assistance for rehabilitating grasslands....The [program provides] financial resources and technical expertise to help landowners protect and restore these lands.”

Partners for Fish and Wildlife (U.S. Fish and Wildlife Service)

www.fws.gov/partners/pdfs/VA-needs.pdf

The Partners for Fish and Wildlife Program was initiated in Virginia in 1989. Early restoration efforts concentrated on non-tidal wetland habitats in the coastal plain and stream restoration in the mountains of southwest Virginia. Many private landowners are willing to restore [wetlands converted to agricultural use] for fish and wildlife with technical and financial assistance from the Partners Program. The Partners Program also assists landowners with riparian (streamside) habitats to improve the fish and wildlife habitat, water quality and aesthetics of their lands and streams.”

Riparian Buffer Tax Credit (Virginia Department of Forestry)

www.dof.virginia.gov/rfb/rbtc-intro.shtml

“Wooded buffers along streams, rivers and the Chesapeake Bay are called riparian forests and help protect our water quality. Virginia landowners can receive a tax credit for preserving riparian forest buffers along waterways during a timber-harvest operation.

“The 2000 Virginia General Assembly enacted the **Riparian Buffer Tax Credit** to provide a nonrefundable tax credit to:

Individuals, S-Corporations, or Partnerships

owning land on which timber is harvested and which abuts a waterway, and who forbears timber harvesting on certain portions of the land for 15 consecutive years.

“The amount of the credit is equal to 25 percent of the value of the timber retained as a buffer up to \$17,500. The buffer must be at least 35 feet wide and no more than 300 feet and be intact for 15 years. The applicant must have a Stewardship Plan for the tract to qualify. A separate application must be completed for each tract.”

Virginia Agricultural Best Management Practices Cost Share Program (Virginia Department of Conservation and Recreation/Soil and Water Conservation Districts)

www.dcr.virginia.gov/sw/costshar.htm

The Virginia Agricultural Best Management Practices (BMPs) Cost-Share Program “provides funds to help install conservation practices that protect water and make farms more productive. Funding availability varies by Soil and Water Conservation District (SWCD). The state provides districts funds to target areas with known water quality needs. Areas with the greatest need receive the greatest funding. The cost-share program supports using various practices in conservation planning to treat animal waste, cropland, pastureland, and forested land. Some are paid for at a straight per-acre rate. Others are cost-shared on a percentage basis up to 75 percent. In some cases, USDA also pays a percentage. In fact, the cost-share program's practices can often be funded by a combination of state and federal funds, reducing the landowner's expense to less than 30 percent of the total cost.”

Local SWCDs implement the BMP cost-share program. To locate your local SWCD, visit the nearest U.S. Department of Agriculture service center, or contact the Virginia Association of Soil and Water Conservation Districts (see the contact information in the next section of this report). More information about Virginia SWCDs and a directory of them are also available online at

www.dcr.state.va.us/sw/swcds.htm.

Virginia Agricultural Best Management Practices and Conservation Equipment Tax Credit Programs (Virginia Department of Conservation and Recreation/Soil and Water Conservation Districts)

www.dcr.virginia.gov/sw/costshar.htm

“The Virginia Agricultural BMP Tax Credit Program...supports voluntary installation of BMPs that will address Virginia's nonpoint source pollution water quality objectives. Agricultural producers with an approved conservation plan can take a credit against state income tax of 25 percent of the first \$70,000 spent on agricultural BMPs. The amount of the tax credit can't exceed \$17,500 or the total state income tax obligation.”

Virginia also offers tax credit programs to encourage farmers to use conservation *equipment*. Under the **Pesticide and Fertilizer Application Equipment Tax Credit Program**, “sprayers for pesticides and liquid fertilizers, pneumatic fertilizer applicators, manure applicators, tramline adapters, and starter fertilizer banding attachments for planters qualify for a tax credit equaling the lesser of 25 percent of the equipment purchase or \$3,750.” Under the **Conservation Tillage Tax Credit Program**, “conservation tillage equipment is eligible for a 25 percent tax credit not to exceed \$2,500. The equipment must meet state-established criteria, and the farmer must have a nutrient management plan approved by the local SWCD.” For more information on these tax credit programs, contact your local SWCD (see the previous item for information on locating your nearest SWCD).

Virginia Agricultural Best Management Practices Loan Program (Virginia Department of Environmental Quality)

www.deq.state.va.us/cap/aghomes.html

“The DEQ [Department of Environmental Quality] Agricultural Best Management Practices [BMPs] Loan Program provides Virginia agricultural producers with a low interest financing alternative for costs

associated with the implementation of specified practices (BMPs) which relate to water quality improvement in the Commonwealth.

“During the first five years of the Ag BMP loan program, DEQ provided a total of **\$12,525,522.81** dollars in low-interest loans to **160** Virginia agricultural producers who were implementing BMPs that will improve water quality in the Commonwealth.

“If you're a Virginia farmer and are interested in implementing any one of **22** loan-eligible BMPs the Virginia Ag BMP Loan Program may be able to assist you by providing you with low interest financing.”

Virginia's Reforestation of Timberlands Program (Virginia Department of Forestry)

www.dof.virginia.gov/mgt/rt-04-new.shtml

“The Virginia legislature authorized the Reforestation of Timberlands Program in 1970 as a financial incentive for private landowners to plant pine seedlings.... Funds for the program come from three sources: forest industry, the Commonwealth, and private landowners. The industry pays into the fund through a self-imposed severance tax when pine timber is harvested. This money is matched with General Revenue funds. Department of Forestry's (VDOF) field offices located throughout the state run the program.”

The program offers the following:

- cost-share assistance;
- genetically enhanced pine seedlings;
- commitment of the VDOF field staff to protect and manage the timberlands according to landowner objectives;
- identification of non-native invasive plant species and recommendations for control techniques; and
- assistance in finding contractors for site preparation, planting, herbicide application, thinning, and enhancement of wildlife habitat.

Watershed Protection and Flood Prevention (USDA Natural Resources Conservation Service)

www.nrcs.usda.gov/programs/watershed/

“The Watershed Protection and Flood Prevention Act (PL 83-566), August 4, 1954, as amended, authorized the Natural Resources Conservation Service (NRCS) to cooperate with States and local agencies to carry out works of improvement for soil conservation and for other purposes including flood prevention; conservation, development, utilization and disposal of water; and conservation and proper utilization of land.

“NRCS implements the Watershed Protection and Flood Prevention Act through three programs:

- Watershed Surveys and Planning;
- Watershed Protection and Flood Prevention Operations; and
- Watershed Rehabilitation.”

Wetlands Reserve Program (USDA Natural Resources Conservation Service)

www.nrcs.usda.gov/programs/wrp/

“The Wetlands Reserve Program is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA Natural Resources Conservation Service (NRCS) provides technical and financial support to help landowners with their wetland restoration efforts. The NRCS goal is to achieve the greatest wetland functions and values, along with optimum wildlife habitat, on every acre enrolled in the program. This program offers landowners an opportunity to establish long-term conservation and wildlife practices and protection.”

Wildlife Habitat Incentive Program (USDA Natural Resources Conservation Service)

www.nrcs.usda.gov/programs/whip/

“The Wildlife Habitat Incentives Program (WHIP) is a voluntary program for people who want to develop and improve wildlife habitat primarily on private land. Through WHIP, USDA’s Natural Resources Conservation Service (NRCS) provides both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP agreements between NRCS and the participant generally last from 5 to 10 years from the date the agreement is signed.”

“The Farm Security and Rural Investment Act of 2002 reauthorized WHIP as a voluntary approach to improving wildlife habitat in our Nation.”

Other Organizations for Technical or Financial Assistance

This section lists other organizations and agencies that might provide for information or funds for watershed and conservation concerns in agricultural areas. All information and quotations in this section were taken from the Internet sites listed for each program or agency (all Internet sites were functional as of December 2005). All cities are in Virginia, unless otherwise noted.

Canaan Valley Institute

www.canaanvi.org

Phone—Staunton office: (800) 922-3601.

Provides assistance to watershed and other volunteer groups in the Mid-Atlantic Highlands (including all of West Virginia and portions of Maryland, Pennsylvania, and Virginia). CVI provides grant assistance as well as training and technical expertise.

Ducks Unlimited

www.ducks.org/

Phone—National headquarters in Memphis, Tenn.: (800)-45DUCKS.

Seeks to conserve, restore, and manage wetlands and associated habitats for North American waterfowl.

River Network

www.rivernetwork.org

Phone—National headquarters in Portland, Ore.: (800) 423-6747.

Works with organizations, government agencies, Native American tribes, and schools to provide information, training, grants, referrals, and networking opportunities related to watershed protection and river conservation.

Trout Unlimited

www.tu.org/index.asp

Phone—National headquarters in Arlington: (703) 522-0200.

Non-profit organization that seeks to “conserve, protect and restore North America’s trout and salmon fisheries and their watersheds.”

U.S. Army Corps of Engineers

www.usace.army.mil

**Phone—Norfolk District office:
(757) 201-7500.**

Responsible for administering Section 404 of the federal Clean Water Act, particularly activities affecting wetlands or other “dredge and fill” activities.

U.S. Environmental Protection Agency—Region 3

www.epa.gov/region03/index.htm

Citizen Hotline/Help Desk phone:

215-814-5000 (or 800-438-2474 if calling from *within* the region).

Virginia is included in EPA Region 3. The EPA maintains many Web sites and “hotline” phone numbers for various programs. (Please see also the EPA’s Five-star Restoration Grant program, listed in the previous section.)

Virginia Association of Soil and Water Conservation Districts

<http://vaswcd.org/>

Phone—Headquarters in Mechanicsville: (804) 559-0324.

A private, nonprofit, voluntary association of 47 soil and water conservation districts in Virginia. The Association provides leadership in the conservation of natural resources through stewardship and education programs; it also seeks to coordinate conservation efforts statewide and to help focus on issues identified by local member districts.

Virginia Conservation Network

www.vcnva.org/

Phone—Richmond office:

(804) 644-0283.

Seeks to coordinate efforts of member organizations (over 100 members as of October 2005) in order to “protect the Commonwealth’s air, lands, and waters for the benefit of the people as guaranteed by the Virginia Constitution” and to focus on Virginia’s environment “in a comprehensive and inclusive manner.”

Virginia Cooperative Extension

1) www.ext.vt.edu (Virginia Tech)

2) www.vsu.edu (Virginia State)

Phone: check local listing for the nearest of 107 unit offices.

Provides technical advice, based on the research and expertise of Virginia Tech and Virginia State, to farmers and other landowners on agricultural practices, natural resource management, and other topics. Extension is the local starting point for access to resources at Virginia Tech and Virginia State.

Virginia Department of Agriculture and Consumer Services

www.vdacs.virginia.gov

Phone—Central Office in Richmond:

(804) 786-2373

“The Virginia Department of Agriculture and Consumer Services...is responsible for over 57 laws and more than 70 regulations relating to consumer protection and promotion of agriculture.

Virginia Department of Game and Inland Fisheries

www.dgif.virginia.gov

Phone—Central Office in Richmond:

(804) 367-1000

Mission is to “manage Virginia's wildlife and inland fish to maintain optimum populations of all species to serve the needs of the Commonwealth.” The Department administers various land and aquatic habitat-restoration programs.

Virginia Department of Health: Offices of Environmental Health and of Drinking Water/Source Water Protection

1) www.vdh.state.va.us/oehs/index.asp (Environmental Health Services Office)

2) www.vdh.state.va.us/dw/swapInfo.asp (Source Water Protection Program)

Phone—Environmental Health Office in Richmond: (804) 864-7473; Drinking Water Office in Richmond: (804) 864-7500.

The Environmental Health office regulates onsite sewage disposal and application of sewage sludge (biosolids) on farmland. The Drinking Water Office regulates drinking-water systems and administers the source-water assessment and protection program, which seeks to protect drinking-water sources from potential harmful effects of land uses, including agricultural land uses.

Virginia Department of Historic Resources

www.dhr.virginia.gov

**Phone—Central Office in Richmond:
(804) 367-2323.**

The state historic-preservation office, seeking to “support the stewardship of Virginia's significant historic, architectural, archaeological, and cultural resources.” The Department offers various kinds of financial assistance for historic preservation.

Virginia Farm Bureau Federation

www.vafb.com/vafb.asp

**Phone—State office in Richmond:
(804) 290-1000.**

An organization of farmers and rural families with more than 146,000 members and 88 county Farm Bureaus located throughout Virginia. “The organization works to support its members through legislative lobbying, leadership programs, commodity associations, rural health programs, products, insurance, marketing and other services.”

Virginia Outdoors Foundation

www.virginiaoutdoorsfoundation.org

**Phone—Central Office in Richmond:
(804) 225-2147.**

By Virginia law, the purpose of the Virginia Outdoors Foundation (VOF) is to “promote the preservation of open space lands and to encourage private gifts of money, securities, land or other property to preserve the natural, scenic, historic, open-space and recreational areas of the Commonwealth. [VOF’s] primary mechanism is the open space easement, [used to protect] farm and forest land, natural areas, watershed areas, rural historic districts and the settings for historic homes, scenic views, lands adjacent to public parks, and game preserves.”

Virginia Water Resources Center

www.vwrrc.vt.edu

Phone—Office in Blacksburg (540) 231-5624.

Seeks to provide objective, non-partisan research and information to public and private decision makers on various water issues.

Virginia's 21 Planning District and Regional Commissions

www.vapdc.org (Virginia Association of Planning District Commissions)

Phone—Norfolk Office of the Association: (757) 412-2664.

Individual commissions provide a variety of technical and program services to member local governments and citizens, including grant-application assistance, management services for program implementation, land- and water-resource planning services, mapping, and access to local or regional reports and other information. The Association can provide contact information for individual commissions.

A Primer on Conservation Easements, Purchase of Development Rights, Land Conservation Tax Considerations, and Agricultural/Forestal Districts

Conservation and Open Space Easements³

A conservation or open space easement is a legal document made between a landowner and a public body or qualified conservation organization. The easement limits present and future property development rights. It allows you to live on the property and use it for its traditional use, e.g., as a farm, forest, open space, and/or natural area, but protects it as well. The easement is legally recorded and bound to the deed of the property permanently.

Each easement is tailored to the specific characteristics and uses of the given property. Timber harvesting, farming, primary residences and other uses may continue while the land's unique characteristics—prime soils, endangered species habitat, wetlands, etc.—are protected. The easement protects the property's natural or open space values, assuring the land's availability for agriculture, forestry, recreation, open-space use, thus protecting natural resources, maintaining or enhancing air or water quality, or preserving historical, architectural or archaeological aspects of the property.

Easements rarely allow public use of your property. The “holder” of the easement, i.e., the land conservation organization with whom the landowner entered into the easement, is responsible for enforcing the protective covenants of the easement and is therefore allowed to conduct periodic inspections of the property. The landowner retains all rights to the property except for restrictions on future development rights specified in the easement.

A landowner may also donate or sell their property to a land conservation organization but continue to live on it until his or her death. This is called a “life estate.” This way land is protected while the owner continues to enjoy the property during his or her lifetime.

Tax Considerations in Land Conservation⁴

Federal Tax Benefits of Conservation Easements

The Internal Revenue Service (IRS) Code allows two principal forms of tax benefit—a federal income tax deduction and an estate tax exclusion. The amount of the deduction or exclusion is determined by an appraiser who calculates the diminution in value resulting from the...placement of the easement on the land. Only easements granted *in perpetuity* are eligible for the tax benefit. In addition to the above two tax benefits, it is an accepted estate tax planning technique to use an easement to lower the value of land (and hence the tax) upon which estate taxes will be owed when the goal is to pass the land to the next generation and to forestall the land having to be sold in order to pay the estate tax.

Income Tax Deductions: Easements as Charitable Gifts

The IRS Code (Sec. 170 [h]) allows charitable gift [status] for qualified conservation contributions, which include the donation of land in fee or the donation of a perpetual conservation easement. The donation must be made to a qualified organization exclusively for “conservation purposes.”

³ The text for this section is reprinted from the Virginia Department of Conservation and Recreation Internet site, “Land Conservation: How to Protect Land,” <http://www.dcr.virginia.gov/olc/howto.htm>, October 27, 2005.

⁴ The text for this section is reprinted (with slight editing and emphasis added) from the Virginia Department of Conservation and Recreation Internet site, “Land Conservation: Tax Advantages, Incentives and Laws Related to Land Conservation,” <http://www.dcr.virginia.gov/olc/howto.htm>, October 27, 2005.

The code specifically defines “conservation purposes.” The regulations outline four such conservation purposes”:

- preservation of land areas for outdoor recreation by, or the education of, the general public;
- protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
- preservation of certain open space (including farmland and forest land);
- preservation of historically important land or certified historic structures.

The landowner donating an easement is permitted to take as an income deduction up to 30 percent of their adjusted gross income in the year of the gift. A private certified appraiser evaluating the value of the easement must determine the value of the gift. If not exhausted the first year, the amount of the gift can be carried forward for as many as five subsequent years.

Estate Tax Benefits of Easements

The Farm and Ranch Protection Act (1997), Section 2031.c of the IRS Code, allows for an exclusion of up to 40 percent of the value of land under conservation easement from federal estate taxes. To qualify, the easement must be perpetual, must meet the conservation purposes of Sec. 170(h) above (except that preservation of a historic area or structure is excluded), and must be within 25 miles of a Metropolitan Statistical Area, national park, or wilderness area or within 10 miles of a national urban forest. These limitations permit nearly all Virginia landowners to take advantage of this exclusion. [Since] 2002, the end of the five-year phase-in period, the maximum exclusion [is] \$500,000 of value. The easement may be given by a landowner who has owned his land for at least three years or by the executor of the estate of such a landowner. The intent of this provision is to provide relief from estate taxes for farmers and ranchers passing land to their children who might otherwise be forced to sell the land to pay estate taxes.

Virginia State Tax Benefits of Conservation Easements

Virginia state income tax is defined as a resident's “federal adjusted gross income for the taxable year” subject to some modifications, none of which affects the charitable deduction of a qualified conservation contribution under Sec. 170(h) of the IRS Code. The charitable gift deduction taken for a conservation easement on the federal tax return therefore results in the same diminution in taxable income for state income tax purposes as it does for federal income purposes.

The newest Virginia state tax benefit pertinent to the donation of easements is a credit enabled by the Virginia Land Conservation Incentives Act of 1999 [Sections 58.1-510 to 58.1-513 of the *Virginia Code*⁵]. [Since FY 2002, this statute has allowed] a tax credit of an amount equal to 50 percent of the value of a gift of easement, up to \$100,000. As with the federal tax benefits, the unused portion of the credit may be carried forward for a maximum of five consecutive tax years.

In addition, for purchased easements, a Virginia state tax exclusion (amendments to *Virginia Code* Sec. 58.1-322 and 58.1-402,) permits a landowner to exclude capital gains from the sale of land on which an open space easement has been placed and on which Virginia capital gains tax would otherwise have been levied.

Local Tax Benefits of Conservation Easements

In those localities where the *land use assessment tax program* [see “Land Use Taxation” subsection below] has been implemented, a gift of conservation easement requires that [the locality] include [the property with the easement] in the land use taxation program.... In localities that have not implemented the land use assessment tax program, the diminution in the land's market value as a result of the easement should lower the amount of tax paid on that value. In these localities, local assessors have, in some cases, been reluctant to give a landowner the same diminution in value allowed by the IRS; however, they are

⁵ This law and other parts of the *Virginia Code* are available online at leg1.state.va.us/000/src.htm. At this Web site, type into the search function a search phrase (such as the name of a law) or the number of the desired *Code* section. Printed copies of the *Code* are available at larger Virginia libraries.

required by state law to recognize the restricted value of the land with the easement in place (*Virginia Code* Sec. 10.1-1011).

A 1993 amendment to the [Virginia] Conservation Easement Act relieved the landowner of the responsibility of filing annual applications or other requirements for qualifying for local land use assessment. The landowner with a permanent qualifying easement—whether to a public body or to a 501(c) (3) organization—automatically receives the benefit of the land use tax rate as long as the locality has implemented one of the four categories of land use tax and the land otherwise qualifies. In the few counties with only one or two categories of land use tax, such as agriculture and horticulture but not forestry, the easement will result in a tax savings on the portion of the land not otherwise eligible for the use value assessment rate.

Land Use Taxation

In Virginia, localities can elect to reduce the real estate tax burden on unimproved land. The [local] Commissioner of Revenue determines if the land is suitable for land use valuation. When the locality accepts the application for the land use valuation, the property tax is a reflection of productivity rather than of fair market value, [typically resulting] in substantially lower real property taxes on the land. The Commissioner of Revenue uses the recommendations of the State Land Evaluation Advisory Council (SLEAC) for the productive value of the land when calculating the real property tax obligation of the landowner. Land use values are determined for agriculture, horticulture, forestry, and open-space.

The locality may take an individual property out of land use when a landowner changes the use of the property (for instance, if the owner harvests timber with no provision to reforest, if a landowner is causing pollution by not following accepted best management practices, or if the property is being developed). Likewise, landowners may elect at any time to remove the property from land use to take advantage of demand for development property. Although this taxation program does not offer long-term conservation, it removes some of the financial pressure for sale and development of land.

Agricultural and Forestal Districts

Agricultural and Forestal Districts (AFDs) are another voluntary method of preserving open space and rural character. Virginia has allowed such districts since 1977; as of 2005, an estimated 29 Virginia localities had AFDs.⁶ These districts are an agreement between a landowner—or group of landowners—and the local government, stating that the land will stay in agricultural/forestry uses for the length of the district, which is from four to 10 years. An eligible piece of property or group of properties must have a core of 200 acres. Lands in AFDs automatically qualify for land use tax assessment rather than fair market value assessment, are allowed exceptions to laws that would restrict farming or forestry in the district, and have some protection from government or public utility actions. Details of Virginia's Agricultural and Forestal Districts can be found in Sec. 15.2-4300 *et seq.* of the *Virginia Code*.

⁶ Valley Conservation Council, “Agricultural/Forestal Districts” Fact Sheet, Staunton, Va. (2005).

Types of Assistance Available for Virginia Agricultural Best Management Practices (BMPs), 2005.





Practice Number	Practice Name	Revision Date	Tax Credit	Cost-Share	Wild-life	Ag BMP Loan *	CREP
CP-21	CREP Filter Strip (Rental only)	5/05					X
CP-22	CREP Riparian Forest Buffer (Rental only)	5/05					X
CP-23	CREP Wetland Restoration (Rental only)	6/04					X
CP-29	CREP Wildlife Habitat Buffer (Rental only)	6/04					X
CRFR-3	Riparian Forest Buffer	7/03	X				X
FR-1	Reforestation of Erodible Crop and Pastureland	6/05	X	X			
FR-3	Woodland Buffer Filter Area	6/00	X	X			
FR-4	Woodland Erosion Stabilization	6/00	X	X			
NM-1	Nutrient Management Plan Writing	6/00		X			
NM-3	Sidedress Application of Nitrogen on Corn	6/02		X			
NM-3B	Manure Application to Corn using Pre-Sidedress Nitrate Test to Determine Need for Sidedress Nitrogen	6/02		X			
NM-4	Late Winter Split Application of Nitrogen on Small Grain	6/00		X			
SE-1	Vegetative Stabilization of Marsh Fringe Areas	1/00	X	X			
SE-2	Shoreline Stabilization	6/02	X				
SL-1 (State)	Permanent Vegetative Cover on Cropland	6/01	X	X			
SL-1W	Permanent Vegetative Cover on Cropland/Wildlife Option	6/00					
SL-3	Stripcropping Systems	6/00	X	X			
SL-3B	Buffer Stripcropping	6/00	X	X			
SL-3W	Buffer Stripcropping /Wildlife Option	9/98					
SL-4	Terrace System	6/00	X	X		X	
SL-5	Diversion	6/00	X	X		X	
SL-6	Grazing Land Protection	4/05	X	X		X^	X
SL-6A	Small Acreage Grazing System	7/04	X				
SL-6B	Alternative Water System	6/04	X			X^	
SL-8	Protective Cover for Specialty Crops	6/05	X	X			
SL-8B	Small Grain Cover Crop for Nutrient Management	7/05	X	X			
SL-11	Permanent Vegetative Cover on Critical Areas	4/05	X	X			
SL-11B	Farm Road or Heavy Traffic Animal Travel lane Stabilization	6/02	X			X^	
SL-15A	Continuous No-till System	6/02		X			
WL-1	Field Borders/Wildlife Option	9/98					





WL-2	Idle Land/Wildlife Option	6/03					
WL-3	Fescue Conversion/Wildlife Option	9/98					
WP-1	Sediment Retention, Erosion or Water Control Structures	4/05	X	X		X	
WP-2	Stream Protection	6/04	X	X		X^	X
WP-2A	Streambank Stabilization	4/05	X	X		X	
WP-2B	Stream Crossings & Hardened Access	6/02	X			X^	
WP-2C	Stream Channel Stabilization	6/02	X			X	
WP-2D	Maintenance of Stream Exclusion Fencing	6/02	X				
WP-2W	Vegetation Establishment for Stream Protection/Wildlife Option- for reference only; - practice not eligible for cost share	6/00					
WP-3	Sod Waterway	4/05	X	X			
WP-4	Animal Waste Control Facility	6/05	X	X		X^	
WP-4B	Loafing Lot Management System	4/05	X	X		X^	
WP-4C	Composting Facilities	4/05	X	X		X^	
WP-4D	Soil Test in Support of Nutrient Management Plan	1/98	X				
WP-4E	Animal Waste Structure Pumping Equipment	6/00	X			X^	
WP-5	Stormwater Retention Pond	6/00	X			X	
WP-6	Agricultural Chemical & Fertilizer Handling Facility	6/00	X	X		X^	
WP-7	Surface Water Runoff Impoundment for Water Quality	6/00	X			X	
WP-8	Relocation of Confined Feeding Operations From Environmental Sensitive Areas	6/00	X			X^	
WQ-1	Grass Filter Strips	4/05	X	X			X
WQ-1W	Filter Strips/Wildlife Option	6/00	X	X	X		
WQ-4	Legume Cover Crop	4/05	X	X			
WQ-5	Water Table Control Structure	6/00	X	X		X^	
WQ-6	Constructed Wetlands	6/00	X			X	
WQ-6B	Wetland Restoration	7/03	X			X	X
WQ-7	Irrigation Water Recycling System	6/02	X			X^	
WQ-8	Fuel Storage Treatment	6/00	X			X^	
WQ-9	Capping/Plugging of Abandoned Wells	6/02	X				
WQ-10	Integrated Pest Management	6/02	X				
WQ-11	Agricultural Sinkhole Protection	1/03	X	X			

*Ag BMP loan consists of two different loan opportunities. X in the “Ag BMP Loan” column denotes BMPs that are eligible for a loan from the Virginia Water Facilities Revolving Fund, administered by the Virginia Department of Environmental Quality. ^ indicates that BMPs that are also eligible for a loan from the Small Business Environmental Compliance Assistance Fund administered through the Virginia Department of Business Assistance.

Source: Table taken from Virginia Department of Conservation and Recreation, *Virginia Agricultural Best Management Practices Manual* (April 2005), pp. I i—ii.

Suggested Best Management Practices (BMPs) for Specific Environmental Problems

Problem and Suggested BMPs (arrow indicates practice shown in photograph)	Photographs of Selected Practices
<p><u>Curbing Water Erosion</u> Grassed waterways → Terraces Grassed conservation buffers Field borders Contour buffer strips</p>	 <p style="text-align: center;">Iowa, 1999</p>
<p><u>Curbing Wind Damage</u> Residue management Shelterbelts Windbreaks → Field stripcropping</p>	 <p style="text-align: center;">Iowa, 1999</p>
<p><u>Conserving Soil and Water Resources</u> Nutrient management Pest management Cover crops Efficient water management Riparian buffers Conservation tillage →</p>	 <p style="text-align: center;">Virginia, 2002</p>
<p><u>Stabilizing Streams</u> Forested riparian buffers Grass filter strips Livestock exclusion Streambank protection Watering facilities →</p>	 <p style="text-align: center;">Georgia, 2002</p>

<p><u>Managing Manure</u> Waste-storage structures and lagoons → Nutrient management Composting facilities Manure spreading</p>	 <p>Virginia, 2002</p>
<p><u>Managing Grasslands</u> Prescribed grazing Pest management Prescribed fire Fencing → Brush management</p>	 <p>Georgia, 2002</p>
<p><u>Establishing Wildlife Habitat</u> Rotational grazing Wetland restoration → Grassland restoration Conservation buffers Stream habitat improvement</p>	 <p>Virginia, 2002</p>
<p><u>Managing Forest Lands</u> Tree planting Forest stand improvement → Prescribed burning Controlling invasive plants</p>	 <p>Idaho, 2002</p>

Source: The text in the chart is from *Farm Bill 2002: What's In It For You? Conservation Practices and Programs for Your Farm*, U.S. Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS)/Wildlife Management Institute (January 2003 brochure). The photographs are courtesy of the USDA/NRCS Photo Gallery, located online at <http://photogallery.nrcs.usda.gov>; the specific photos shown here were taken from that site on October 25, 2005.

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