

## **VIRGINIA AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT PROGRAM**

### Overview

The goal of the Agricultural Best Management Practices (BMP) Tax Credit Program is to encourage voluntary installation of BMPs that address Virginia's non-point source pollution water quality objectives. As with any tax credit usage, the taxpayer is ultimately responsible for determining whether 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 Tax Credit Program does not convey the public's right to access the participant's property. The current Virginia Agricultural Best Management Practice Tax Credit is either (i) twenty-five percent (25%) of the first \$100,000 expended for agricultural best management practices, or (ii) for any producer who has an approved Resource Management Plan, fifty percent (50%) of the first \$100,000 expended for agricultural best management practices. If a producer receives a cost-share payment, only the producer's share of the project (i.e. their out-of-pocket expense) is used to determine the amount of the tax credit. If a producer has an approved Resource Management Plan and receives a cost-share payment, the producer is only eligible to claim twenty-five percent (25%) of the first \$100,000 expended for agricultural best management practices.

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

The applicable Code of Virginia sections follow:

### **§ 58.1-339.3. Agricultural best management practices tax credit.**

A.1. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that 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. A detailed list of the standards and criteria for agricultural best management 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.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, 2030, 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 refundable credit against the tax imposed by §58.1-320 in an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the individual.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, 2030, any individual who is engaged in agricultural production for market, or who has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a Resource Management Plan approved by the local SWCD shall be allowed a refundable credit against the tax imposed by §58.1-320 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the individual on the acreage included in the Resource Management Plan.

B.1. Any eligible 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.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C.1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed \$75,000 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. A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.

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.).

#### **§ 58.1-439.5. Agricultural best management practices tax credit.**

A.1. As used in this section, "agricultural best management practice" means a practice approved by the Virginia Soil and Water Conservation Board that 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. A detailed list of the standards and criteria for agricultural best management practices eligible for credit shall be found in the most recently approved "Virginia Agricultural BMP Implementation Manual" published by the Department of Conservation and Recreation.

2. For all taxable years beginning on and after January 1, 1998, but before January 1, 2030, any corporation engaged in agricultural production for market that has in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD) shall be allowed a refundable credit against the tax imposed by §58.1-400 of an amount equaling 25 percent of the first \$100,000 expended for agricultural best management practices by the corporation.

3. For all taxable years beginning on and after January 1, 2021, but before January 1, 2030, any corporation that is engaged in agricultural production for market, or that has equines that create needs for agricultural best management practices to reduce nonpoint source pollutants, and has in place a Resource Management Plan approved by the local SWCD, shall be allowed a refundable credit against the tax imposed by §58.1-400 in an amount equaling 50 percent of the first \$100,000 expended for agricultural best management practices implemented by the corporation on the acreage included in the Resource Management Plan.

B.1. Any eligible 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.

2. To the extent that a taxpayer participates in the Virginia Agricultural Best Management Practices Cost-Share Program, the taxpayer may claim the credit under subdivision A 2 for any remaining liability after such cost-share, but may not claim the credit under subdivision A 3 for any such remaining liability, subject to the other provisions of this section. For purposes of this subdivision, "liability after such cost-share" means the limitation of the tax credits to the total costs incurred by the taxpayer for agricultural best management practices reduced by any funding received by participation in the Virginia Agricultural Best Management Practices Cost-Share Program.

C.1. The aggregate amount of such credit claimed under subdivisions A 2 and 3 shall not exceed \$75,000 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. A taxpayer may not claim credit for the same practice in the same management area under both subdivisions A 2 and A 3.

2. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall 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 taxpayer applies for the refund.

D. For purposes of this section, the amount of any credit attributable to agricultural best management practices 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.

#### 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 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 will administer the program to the landowner. A list of Virginia's Hydrologic Unit Codes by county can be found on the DCR website.

Agricultural fields may cross county borders and a field may exist in more than one District. For the purposes of this tax credit program only, Districts are urged to utilize the county boundary layer available in the AgBMP Tracking Module to determine the District that will administer the Agricultural 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 Identification 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

Section 58.1-339.3 E of the Code of Virginia states "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.)."

Additional information related to pass-through entities is available at

<https://www.tax.virginia.gov/pass-through-entities>.

## BMP Sign-Up

Districts will conduct sign-up for the tax credit program on a continuous basis. Sign-up will be recorded in the AgBMP Tracking Module. **In accordance with Code requirements, applicants must have a District approved soil conservation plan to receive an Agricultural BMP Tax Credit.** This soil conservation plan requirement applies to both structural and agronomic practices for tax credit. Other types of professionally developed conservation planning documents as itemized below may be used 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 paperwork and field work to be completed prior to the authorization of the tax credit. BMPs approved for tax credit only are not required to complete the Cost-Share Bid Process. The Code of Virginia requires that the BMP be completed within the taxable year in which the tax credit is claimed. The completion date of the BMP, as documented by the Contract Part III Technical Practice Installation Certification date, must be in the same calendar year as the tax credit certification date in order for the producer to be eligible to participate in the Tax Credit Program. For example, if the BMP is certified as complete on Dec 31, 2017 and the tax credit was certified on Dec 31, 2017, the producer would be eligible to submit for the Agricultural BMP tax credit when filing 2017 state taxes.

## 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 plans are acceptable as soil conservation plans as long as the plan includes the BMPs installed:

- DCR Conservation Plan
- USDA Conservation Plan
- Pest Management Plan (VCE Standards) – WQ-10 BMP **ONLY**
- Ag Stewardship Plan (VDACS Standards)
- Resource Management Plan (DCR Standards)

Conservation plans should be written by an individual certified to write that type of conservation plan and must meet current conservation planning standards. A private planner, technical service provider, or other professional conservation staff of an appropriate federal, state or local agency can prepare the plan. Comprehensive conservation planning for the entire operation is always encouraged.

### Pre-Approval of Tax Credit BMPs

District Boards of Directors should approve BMPs for tax credit-only BMPs based on the total eligible estimated cost of the BMP before installation. Any cost overruns that may impact the amount of the approved tax credit must be approved as a separate action after the BMP is certified.

For VACS cost-share practices with an associated tax credit, an initial tax credit approval is not necessary since the BMP itself must be approved for cost-share purposes. Since tax credits are now based on out-of-pocket costs after cost-share, the tax credit can be approved, certified and paid once the project is complete and the VACS participant turns in their receipts.

Final approval of practices for tax credit is the responsibility of the local Soil and Water Conservation District Board of Directors.

### Documentation

For any practice receiving a tax credit, the District will require a signed landowner application and certification forms (DCR Cost Share Contract Parts I, II and III), approved conservation plan including a copy of a map showing field and BMP location and exact acreage, engineering documents (if required for the BMP), and bills/invoices/receipts 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 of the practice has expired. Districts must file their copy of all tax credit related forms by program year. Conservation plans and practice design sheets must be kept with individual case files according to cost-share program policy. Canceled applications may be discarded after the initial three year period if not needed for future reference by the District.

### DCR Agricultural BMP Engineering Services

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. Please see Section II (Guidelines) and the Glossary of this Manual for further information about the EJAA Program.

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

<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-6B	Alternative Water System	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
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 Crossing & 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
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	Diversion	EJAA
		410	Grade Stabilization Structure	PE
		412	Grassed Waterway	EJAA
		430	Irrigation Pipeline	EJAA
		436	Irrigation Reservoir	PE
		441	Irrigation System -	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	PE
		351	Water Well Decommissioning	EJAA
WQ-9	Capping/ Plugging of Abandoned Wells			

### 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 AgBMP Tracking Module. Tax credit data is captured on the Programs tab of the AgBMP Tracking Module and should be entered using the following guidelines:

- The “Estimated Instance Cost” and “Actual Instance Cost” should be entered for BMPs that receive both cost-share and a tax credit, as well as for BMPs that are only eligible to receive tax credits.
- “Tax Credit Amount Taken On” is the out-of-pocket amount the producer spent on eligible costs to install the BMP. For flat rate practices, this amount may be more than the cost-share total.
- The “Tax Credit Approved” is the amount approved by the District Board. The “Tax Credit Issued” amount cannot be larger than the “Tax Credit Approved”
- The “Tax Credit Board Approval Date” field is the date that the Board approved the Tax Credit. Note that for cost-share BMPs where tax credit can be approved after project completion, this date may be different than the BMP Instance’s Approval Date on the General Tab.
- 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. Note that the “Technical Certification Date” and the “Tax Credit Certification Signature Date” must be in the same calendar year. Tax credits issued in a different calendar year than the “Technical Certification Date” are not valid. Therefore, if a project is completed at the end of the calendar year and the producer requests an additional tax credit that will not be approved until a January Board meeting, District staff should technically certify in the new year with the “Tax Credit Certification Signature” date equaling the “Tax Credit Board Approval Date.” In such cases, the tax credit will not be eligible for redemption until the following tax year.
- 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. If no additional tax credit is required, the “Tax Credit Certification Signature Date” should equal the “Technical

Certification Date.” If an additional tax credit is required, the “Tax Credit Certification Signature Date” should equal the “Tax Credit Board Approval Date.”

- At the bottom of the Programs tab, 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 an additional tax credit on eligible, out-of-pocket expenses 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 Verification

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 verification inspections 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 verified will be identified and inspected based upon Chesapeake Bay Program Office (CBPO) approved verification procedures and the Department's procedures for all practices outside of the Chesapeake Bay area.

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

### Transfer of Responsibility

When an applicant agrees to maintain the approved BMP for the specified life span, the applicant is responsible regardless of changes in the control of the land, including the sale of the property or any change in farm lease arrangements. Maintenance agreements between the involved parties can be encouraged but the ultimate responsibility still rests with the applicant. Upon the transfer of ownership or leasehold of the property, the original applicant must present to the District either an executed copy of the “Agricultural Best Management Practice Maintenance Agreement Transferring Responsibility for Best Management Practice” transferring legal responsibility for maintenance of the practice to the new property owner/lessee. Alternatively, the participant may return, on a pro-rata basis, tax credit funds directly to the Department of Taxation.

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 to the Department of Taxation. Practice failures or damage that results from other than weather related causes are not eligible for additional tax credit. 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. Reapplication 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). Reapplications will be subject to the lifespan requirement of the second application request.

Commonwealth of Virginia Agricultural Best Management Practice Maintenance

AGREEMENT TRANSFERRING MAINTENANCE 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 operator) 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 Number: \_\_\_\_\_ Tract Number: \_\_\_\_\_ Field Number(s): \_\_\_\_\_

VACS Specification Number: \_\_\_\_\_ Extent Installed: \_\_\_\_\_

Or, Contract No. \_\_\_\_\_

**PRESENT PARTICIPANT-NAME AND ADDRESS**

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

Phone Number: \_\_\_\_\_

**NEW PARTICIPANT-NAME AND ADDRESS**

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

Phone Number: \_\_\_\_\_

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 District personnel access to his property for the purpose of verifying maintenance of the BMP.
2. The \_\_\_\_\_ District 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)

\_\_\_\_\_  
DATE

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

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

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

\_\_\_\_\_  
DATE

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

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

### Practices Not Maintained or Destroyed During Lifespan

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.

### Return of Tax Credit

The partial or full return of tax credit funds will be calculated on a straight-line pro-rated basis. This should be calculated on a monthly basis. For Example: XYZ District authorized a \$1,200 tax credit for a SL-6B BMP to Farmer Green on October 10, 2019. 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. This practice is verified in August of 2022 and it is discovered that the land was sold in June 2022 for development and the practice has been destroyed. The District should calculate the landowner's pro-rata share as follows:

- Installation Date: Oct. 10, 2019
- Lifespan of practice: 10 Years- Jan. 1, 2020 through Dec. 31, 2029 = 120 months
- Spot Check Date: Aug. 2022
- Practice in Compliance: Jan. 2020 through June 2022 = 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

The District will notify the Department of Taxation of the landowner's name, Social Security Number or Tax ID number to which the tax credit was issued, the year that the tax credit was issued, contract number, instance number, the DCR specification code for which the tax credit was authorized, and the calculated re-payment amount. Districts can contact the Department of Taxation's Tax Credits Unit by phone at (804)786-2992 or by email at

[taxcredits@tax.virginia.gov](mailto:taxcredits@tax.virginia.gov). Do not send complete Social Security Numbers or Tax ID numbers by email.

Upon receiving a response from the Department of Taxation regarding the verified repayment amount due, the District will provide the amount, in writing, to the participant. Participants will also receive an assessment notice from the Department of Taxation for the amount due after the income tax return that previously claimed the credit has been adjusted. The participant will need to follow the guidance on the assessment notice on how to submit payment to the Department of Taxation. The participant should provide the District with a copy of the Department of Taxation assessment notice for verification.

### 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 credit-only BMPs based on the total estimated cost of the BMP before installation. If the calculation of the participant's out-of-pocket eligible 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 additional tax credit amount as a separate action. District Directors must vote on all actions taken and record the outcome in the minutes of the meeting that such action is approved.

For VACS cost-share practices with an associated tax credit, an initial tax credit approval by the District Board of Directors is not necessary since the BMP itself must be approved for cost-share purposes. Since tax credits are now based on out-of-pocket costs after cost-share, the tax credit can be approved by the Board, certified and paid once the project is complete and the VACS participant turns in their receipts.

When calculating a tax credit on a BMP that allows both a percentage cost-share payment and a flat rate payment (including buffer payments), both the flat rate and the percentage based cost-share amount should be included in the calculation of the tax credit. Both the flat rate and the percentage based cost-share amount should be deducted from the participant's out-of-pocket expenses to calculate the Agricultural BMP tax credit amount. For example, Participant A signs up for SL-6W with eligible costs of \$100,000 at the 85% cost-share rate; Participant A does not have an approved RMP. The District Board approved \$85,000 in cost-share and \$5,000 in buffer payment for a total VACS payment of \$90,000. The participant's estimated tax credit should be \$2,500 based off of twenty-five percent of \$10,000; the amount he will have to pay for the project out-of-pocket.

Due to changes to the agricultural tax credit law in 2020, Districts must now provide the following documentation to their tax credit program participants no later than January 31<sup>st</sup> of the calendar year following practice certification:

- A single copy of the Virginia Form ABM developed by the Virginia Department of Taxation. Even if the producer has multiple completed tax credit contracts within a single calendar year, the producer should only receive one Virginia Form ABM per District. The Conservation Application Suite will account for all certified tax credits within the District when autogenerating the Virginia Form ABM.
- A single letter from the District (if applicable – for regular credit applications) stating that the producer has a soil conservation plan that has been approved by the District. NRCS or the District could have developed the plan, but it must be approved by the District Board prior to implementation of the tax credit best management practice(s).
- A single letter from the District (if applicable – for enhanced credit applications) stating that the producer has a resource management plan that has been approved by the District. The plan should be approved by the District Board prior to implementation of the tax credit best management practice(s).
- A copy of each credit certification letter and associated tax credit certificate(s) per BMP Instance. Unlike the forms listed above, there may be many of these letters and attached certificates sent to the producer.

All of these documents may be downloaded from the Conservation Application Suite (CAS) or are auto generated by the CAS system. While each District must provide this documentation to their tax credit program participants by January 31<sup>st</sup>, it is ultimately the responsibility of the producer and their tax preparer to ensure the completion of the Virginia Form ABM and submit all of the documents listed above, as well as all bills/invoices/receipts, to the Virginia Department of Taxation prior to filing their return and no later than December 31.



**EXAMPLE**

Soil and Water Conservation District Letterhead

**AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT CERTIFICATE**

NAME OF APPLICANT: XXXXXXXXXX

ADDRESS: XXXXXXXXXX

SSN OR TAX ID NUMBER: XXXXXXXXXX

BMP INSTALLED: SL-6W, Stream Exclusion with Wide Width Buffer

CONTRACT NUMBER: 01-22-1111

INSTANCE NUMBER: 012121

COMPLETION DATE: 05/05/2022

CONSERVATION PLAN WRITTEN DATE: 01/15/2022

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: \$3,575.00

*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: \$893.75

Reason for Tax Credit: Agricultural BMP

Approving Soil and Water Conservation District: (District name)

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

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

## Agricultural Equipment 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 District.

To receive the tax credit, a piece of equipment must meet all the specifications for its category; the categories and their specifications may be found beginning on page IV-24. It will be the responsibility of the purchaser to determine if the equipment meets these specifications. It is not the responsibility of the SWCD or any other agency staff to determine or advise the purchaser if the equipment qualifies.

If a producer approaches the SWCD asking for documentation in support of their application for the Conservation Tillage and Precision Agricultural Equipment Tax Credit, the SWCD should send the participant the following documents as soon as possible:

- A single blank copy of the Virginia Form AEC.
- A single letter from the SWCD stating that the producer has a soil conservation plan that has been approved by the District. Refer to the 'Plan Requirements' section (Page IV-6) for more information about the types of plans that meet this requirement. The plan must be approved before the producer's deadline for submitting documentation to the Virginia Department of Taxation, which is at least 90 days prior to the producer's state income tax filing date. Note that for many individuals, the state filing date is May 1<sup>st</sup>, which means the producer must submit their Virginia Form AEC and supporting documentation to the Virginia Department of Taxation by January 31<sup>st</sup>.
- A single blank copy of the certified statement signed by the producer, as well as the individual who prepared the nutrient management plan, stating that the nutrient management plan is being implemented.

All of these documents may be downloaded from the Conservation Application Suite (CAS).

It is the responsibility of the producer and their tax preparer to ensure the completion of the Virginia Form AEC and submit all of the documents listed above, as well as all bills/invoices/receipts, to the Virginia Department of Taxation at least 90 days prior to the producer's state income tax filing date. 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 and Precision Agriculture Equipment

The Department of Taxation has authority over the administration of the conservation tillage tax credit; DCR does not have an administrative role in this particular conservation tillage tax credit.

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

A. For taxable years beginning before January 1, 2021, 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 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 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.

### *§ 58.1-337. Tax credit for purchase of conservation tillage and precision agriculture equipment.*

A.1. For taxable years beginning on or after January 1, 2021, but before January 1, 2030, any individual engaged in agricultural production for market who has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with §10.1-104.2 by the required tax return filing date of the individual shall be allowed a refundable credit against the tax imposed by §58.1-320 of an amount equaling 25 percent of all expenditures made by such individual for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may

be attached to equipment already owned by the taxpayer.

2. 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:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. 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.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection 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.

B. 1. For taxable years beginning before January 1, 2021, 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 25 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:

- a. Sprayers for pesticides and liquid fertilizers;

- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

2. The amount of such credit under subdivision 1 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.

3. For purposes of this subsection, 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.

*§ 58.1-432. Tax credit for purchase of conservation tillage equipment.*

A. For taxable years beginning before January 1, 2021, any corporation shall be allowed a credit against the tax imposed by § 58.1-400 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 used 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 which exceeds such tax liability may be carried over for credit against income taxes 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.

*§ 58.1-436. Tax credit for purchase of conservation tillage and precision agricultural application equipment.*

A.1. For taxable years beginning on or after January 1, 2021, but before January 1, 2030, any corporation engaged in agricultural production for market which has in place a soil conservation plan approved by the local soil and water conservation district and is implementing a nutrient management plan developed by a certified nutrient management planner in accordance with §10.1-104.2 by the required tax return filing date of the corporation shall be allowed a refundable credit against the tax imposed by §58.1-400 in an amount equaling 25 percent of all expenditures made by such corporation for the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction such as a "no-till" planter, drill, or other equipment or equipment that provides more precise pesticide and fertilizer application or injection. For purposes of this section, equipment that reduces soil compaction includes equipment utilizing guidance systems to control traffic patterns that are designed to minimize the disturbance of soil in planting crops, including such planters, drills, or other equipment that may be attached to equipment already owned by the taxpayer.

2. 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:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height-adjustable booms for sprayers and liquid fertilizer applicators;
- d. Manure applicators;
- e. Tramline adapters; and
- f. Starter fertilizer banding attachments for planters.

3. The amount of such credit under this subsection shall not exceed \$17,500 in the year of purchase. If the amount of the credit exceeds the taxpayer's liability for such taxable year, the excess shall 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 taxpayer applies for the refund.

4. For purposes of this subsection, the amount of any credit attributable to the purchase of equipment certified by the Virginia Soil and Water Conservation Board as reducing soil compaction or providing more precise pesticide and fertilizer application or injection by a partnership or S corporation shall be allocated to the individual partners or shareholders in

proportion to their ownership or interest in the partnership or S corporation.

B.1. For taxable years beginning before January 1, 2021, any corporation engaged in agricultural production for market which 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 corporation shall be allowed a credit against the tax imposed by §58.1-400 of an amount equaling 25 percent of all expenditures made by such corporation 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:

- a. Sprayers for pesticides and liquid fertilizers;
- b. Pneumatic fertilizer applicators;
- c. Monitors, computer regulators, and height adjustable booms for sprayers and liquid fertilizer
- d. applicators;
- e. Manure applicators;
- f. Tramline adapters; and
- g. Starter fertilizer banding attachments for planters.

2. The amount of such credit under subdivision 1 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 corporation in the next five taxable years until the total amount of the tax credit has been taken. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively.

3. For purposes of this subsection, 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 S corporation shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

### **Equipment Categories and Specifications:**

The categories of equipment covered include:

- Spray systems for pesticides and liquid fertilizers;
- Pneumatic fertilizer applicators;
- Monitors and flow regulators for pesticide and liquid fertilizer applicators;
- Manure application equipment;
- Tramline adapters;
- Starter fertilizer banding and in-furrow attachments for planters;
- Variable rate application equipment using spatial positioning systems; and
- Other equipment.

The certification criteria for equipment eligible to receive this income tax credit are as follows:

#### **A. Spray systems for pesticides and liquid fertilizers**

Newly purchased sprayers, to qualify for the credit, must have all of the following features.

1. Quick change nozzles to enable operators to select and position the correct nozzle for each type of pesticide and/or liquid fertilizer application. These must also be "anti-drip" type nozzles.
2. Adequate pump capacity to maintain required pressures at all nozzles on the boom and to ensure complete mixing at all times of the spray solution by recirculating at least 40% of the pumped volume.
3. Sectioned boom "cutoffs" for boom widths greater than 20 feet that enable the operator to reduce spray width and thus reduce overlaps and applications to non-field areas when finishing irregularly shaped areas of fields.
4. Pressure gauges or monitors on each boom section to ensure adequate pressure for even applications rates across the boom.
5. Steps and a platform or other means where applicable to safely and easily add materials to the spray tank. The spray tank opening must be large enough for the safe addition of materials to the tank and have a lid that seals.
6. Calibration kits for all new sprayers.

#### **Optional features for new spray systems:**

The following components are optional for new spray systems but considered desirable. Both these items and those listed above, when purchased as components for addition to an existing sprayer will qualify for the tax credit.

1. Spray tank drain that can be opened and closed without exposure of the operator to the solutions.



2. Mechanical or hydraulic boom height adjustment to enable operators to select the appropriate height for each spraying situation.
3. Marker systems which allow the applicator to more precisely locate previously sprayed areas to prevent over application in the overlap between sprayer passes.
4. Clean water rinse systems which provide the ability to rinse spray tanks or pesticide containers in the field at the time the application is being made.
5. Self-leveling booms which minimize boom movement and assure accurate spray patterns across the width of the boom.
6. Multiple nozzle body systems or multiple boom systems which allow for a rapid change between previously selected nozzles to allow for appropriate changes in the field without leakages.
7. Chemical injection metering systems which eliminate the need for tank mixing.
8. Air carrying sprayers.
9. GPS guidance and auto-steer systems.
10. Pesticide application systems incorporating electrostatic charging technology to improve spray deposition.

Required features for upgraded existing spray systems:

Items added to upgrade an existing spray system qualify if the resultant sprayer has the essential features previously stated for new spray systems in items 1-6 above.

Optional features for upgraded existing spray systems:

Both these items and those listed above, when purchased as components for addition to an existing sprayer will qualify for the tax credit. Spray systems may have the essential features previously stated for new spray systems in items 7-16 above.

Required features for air assist spray systems:

Newly purchased air assist application equipment must have the following features:

1. Air assist spray systems must have the essential features previously stated for spray systems in items 2-6 above. Nozzles need not be “quick change” but must be “anti-drip” for the system to qualify.
2. Manifold sections must have separate cutoff or actuator valves.
3. There must be top deflectors, guide vanes, or other means to adjust the direction of the flow of air.

4. The equipment must be capable of variable air volume (i.e. a variable pitch fan, variable slot width, etc....)

Optional features for air assist spray systems:

1. Multiple nozzles.
2. Powder mixers or pre-mixers.
3. Optical or electronic sensing system to control sprayer application by providing spray shut off to the whole nozzle bank or to individual nozzles when no target is present.
4. Equipment which permits the recovery of excess spray for reuse.
5. Shields or deflectors to contain or direct the spray.

## **11. Pneumatic fertilizer applicators**

Pneumatic applicators are capable of uniformly applying materials that vary in particle size on non-uniform terrain. They must possess the following characteristics to qualify for the tax credit:

Required features:

1. Provide uniform division of the fertilizer materials from the central hopper to each distribution device on the boom.
2. Allow infinitely variable rates of application within the range of application rates for the particular applicator.
3. Have a spread pattern coefficient of variation of less than 15% for the entire boom width.

Optional features:

1. Be equipped for "static" and/or moving calibration prior to field use.
2. Have monitoring equipment which indicates the actual application rate for boom sections during field operation.
3. Be equipped to vary the rate of application during field operation.

## **12. Monitors and flow regulators for pesticide and liquid fertilizer applicators**

These are defined as electronic and mechanical devices which provide operators with an accurate indication of any of the following:

1. True ground speed;
2. Nozzle pressure;
3. Flow rates of the spray solution;
4. Air flow in air assist spray systems;
5. Blocked nozzles or distribution devices;
6. Actual application rates;
7. Allows for the accurate adjustment of application rates while spraying;

8. Metering for injected liquid fertilizer application at or post planting; or
9. Monitor boom height and adjust to appropriate height for each spraying situation to assure accurate spray patterns across the width of the boom.

### **13. Manure application equipment**

Newly purchased manure application equipment must have the following features. Items added to upgrade an existing applicator qualify if the resultant spreader meets the following criteria also.

#### **a. Dry Manure Spreaders**

##### Required features:

1. Constructed so as to prevent leakage during transport and include a litter/slurry pan or a hydraulic end gate.
2. Capable of spreading manure at 2.5 tons/acre or less in a uniform swath.
3. Box spreaders (flat bottom) having a beater spreader mechanism shall be equipped with an upper beater and a gear reduction unit (slow down kit) to provide chain speeds of no more than 2.5 feet/minute.

##### Optional features:

1. Spreaders having an adjustable discharge gate/door may be equipped with an indicator to display the position of the gate/door.
2. Spreaders used to apply poultry manure and litter less than 50% moisture content may have cupped beaters.

#### **b. Liquid Manure Spreaders**

##### Required features:

1. Constructed so as to prevent leakage during equipment transport.
2. Capable of spreading manure at 1,000 gallons/acre or less in a uniform swath behind the spreader.
3. Have an application swath width of 20 feet or greater. The applicator must be driven by a positive discharge system.

##### Optional features:

1. Equipment to inject the manure directly into the soil. The application swath width requirements are waived for this option.

#### **c. Manure Irrigation System**

##### Required features:

1. Designed for a maximum application rate of 0.30"/hour. The nutrient management plan must address the issues of infiltration rates and environmentally sensitive areas.
2. Components submitted for the tax credit must meet the IRS "equipment" definition

requirements of Federal Tax Regulation 1.48-1(c). Pipe installation in the ground is defined as real property and does not qualify.

3. Be purchased and utilized primarily for waste application.

#### **14. Tramline Adapters**

A tramline adapter alters a grain drill to leave certain rows unplanted. This allows for later access (traffic patterns) to the growing crop for split application of fertilizers and pesticides without damage to the crop. For the purposes of these criteria, the adapter is defined as the following components necessary for the adoption of the system:

1. The tramline mechanism for the drill.
2. As a set, the tires and associated rims, not to exceed 13.6" wide, necessary to adapt tractors for use in tramline systems.

#### **15. Starter fertilizer banding and in-furrow attachments for planters**

Starter fertilizer attachments for planters, drills and transplanters include appropriate soil opening components and allow for accurate band applications of fertilizers near the root zone when planting or transplanting a crop. Fertilizer hoppers or liquid fertilizer tanks attached or connected by hoses to the planter during field operation are an integral component of this equipment. The starter fertilizer banding or in-furrow attachment may be purchased as part of a new planter or purchased for installation on an existing planter. For newly purchased planters, only the cost of the starter fertilizer banding or in-furrow attachment is eligible for this tax credit. The start fertilizer banding or in-furrow attachment must meet the following criteria:

1. Constructed to place fertilizer in a band below the soil surface and within the root zone of seedlings or transplants.
2. Capable of accurately metering a range of application rates.

#### **16. Variable rate application equipment using spatial positioning systems**

This equipment combines the use of spatial positioning systems, such as global positioning using satellite technology, with variable rate application equipment for nutrients or pesticides, to result in more precise applications. To qualify for the tax credit, the equipment must:

1. Be used in conjunction with pesticide, manure, and fertilizer application equipment.
2. Result in automated variable nutrient or pesticide application rates using:
  - i. Spatial positioning systems;
  - ii. Variable application rate controllers; and
  - iii. Other input data such as, but not limited to, grid or management zone soil analysis results, soil types, expected yields, or weed maps.

### **17. Other equipment**

Application systems which incorporate entirely new technology or application technology not covered by these criteria will be considered by the Board on a case-by-case basis upon request.

1. Pesticide application systems incorporating electrostatic charging technology to improve spray deposition shall qualify for the tax credit.
2. Equipment added to irrigation systems which provide more precise pesticide or nutrient application will qualify for the tax credit. Eligible necessary components include:

### **18. Accessories to protect the water source by preventing back flow or back siphoning.**

1. A flow sensor to monitor water flow and adjust the injection rate of pesticide or fertilizer to achieve the appropriate application rate.

**Sample Certification of Nutrient Management Implementation:**

Using a written or digital record keeping system, I have diligently recorded all nutrient applications to the fields in my nutrient management plan for the period \_\_\_\_\_ through \_\_\_\_\_ to the crops specified in my nutrient management plan.  
(month/year) (month/year)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Producer signature) (date signed)

I have reviewed application records kept by \_\_\_\_\_ and I hereby  
(producer name)  
certify that those records have supplied sufficient information to show the producer has applied the proper materials and nutrient rates to at least 85% of the field acres as specified in the nutrient management plan covering \_\_\_\_\_ through \_\_\_\_\_.  
(month/year) (month/year)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Certified Planner signature) (NMP Cert. No.) (date signed)