

Recommended revisions to the VACS BMP Manual for FY2023 - CREP

Section revisions:

<i>Pages</i>	<i>Section Heading</i>	<i>Reason for change</i>
1 and 8	CREP Cost-Share Funding Starting in FY2021	Language has been amended to reflect the recommendation that the cost-share match for CREP be increased from 35% to 50%.
8	Federal CREP Incentive Payments	Language has been added that references the tax credit available to producers who install certain agricultural best management practices.

Specification revisions:

CRFR-3 (CREP Woodland buffer filter area)
CRSL-6 (CREP Stream Exclusion with grazing land management)
CRWP-2 (CREP Stream protection)
CRWQ-1 (CREP Herbaceous riparian buffers)
CRWQ-6B (CREP Wetland restoration)
CRWQ-11 (CREP Agricultural sinkhole protection)

All of these specifications have been revised as follows:

C. Rate(s)

1. For all CREP BMPs identified on approved farm conservation plans, the CREP cost-share rate is ~~thirty-five~~ fifty percent (~~50~~ 35%) of FSA approved eligible cost.
2. As set forth by Virginia Code, the Commonwealth currently provides a tax credit for implementation of certain agricultural best management practices as discussed in the Tax Credit Guidelines of the VACS Manual. As set forth by Virginia Code § 58.1-339.3 and §58.1-439.5, Virginia currently provides a tax credit for implementation of certain BMP practices. The current tax credit rate, which is subject to change in accordance with the Code of Virginia, is 25% of the total eligible cost not to exceed \$17,500.00.

*NOTE – There may be some page numbers that are not formatting correctly. This is a result of using track-changes to show the recommended revisions to the Manual; it will be corrected once the final version of the Manual has been approved by the Board.

CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)

Overview

The Commonwealth of Virginia and USDA agreed in June of 2000 to implement a Conservation Reserve Enhancement Program (CREP). Virginia CREP utilizes financial incentives from state and federal sources to encourage farmers to enter into a contract with the USDA Farm Service Agency (FSA) to remove environmentally sensitive land from agricultural production.

There are two geographical components to the Virginia CREP program. The Chesapeake Bay portion of Virginia CREP is directed at the area of Virginia draining to the Chesapeake Bay. The other portion of Virginia CREP is directed at the area of Virginia that drains Outside of the Chesapeake Bay (OCB), which is also known as the Southern Rivers for this Program. Combined, both components had an original goal of enrolling and restoring 35,000 acres of riparian buffers and wetlands in the program by the end of calendar year 2012. The OCB CREP has added an additional 5,000 acres to its enrollment goal, making the current statewide enrollment goal 40,000 acres.

Specific goals are as follows:

Chesapeake Bay:

- 1) 22,000 acres of riparian area treatment; and
- 2) 3,000 acres of wetlands restored.

Outside Chesapeake Bay:

- 1) 13,500 acres of riparian area treatment (includes supplemental 5,000 acres approved in March of 2005); and
- 2) 1,500 acres of wetlands restored.

Expected Benefits

There are expected to be significant water quality and wildlife habitat improvements including:

- 1) The reduction of over 500,000 lb. of nitrogen per year.
- 2) The reduction of over 66,000 lb. of phosphorus per year.
- 3) The reduction of over 33,000 tons of sediment per year.
- 4) The substantial enhancement of wildlife habitat and the preservation of biological diversity, including threatened and endangered species.

CREP Cost-Share Funding Starting in FY2021

Starting in Fiscal Year 2021 which begins July 1, 2020, the Commonwealth will pay ~~35~~ 50% cost-share for select **CREP practices**. The availability of federal Practice Incentive Payments (PIP), Signing Incentive Payments, and, where applicable, Chesapeake Bay Incentive Payments (CBIP) will assure that implementation of these practices will provide ~~nearly approximately 100~~ 85% reimbursement of approved costs to the participant.

In order to ensure the availability of adequate state matching funds, the following process will be used for CREP practice applications:

- 1) FSA will notify the Department when CREP applications are received;
- 2) The Department will reach out to the local District impacted by the CREP application(s) in order to confirm that the District has knowledge of the project and that the following required items have been completed:
 - The CRP-1 and CRP-2C forms have been obtained from FSA;
 - The VA Contract Part I and W-9 tax forms have been obtained from the participant;
 - The NRCS Conservation Plan and map have been received from the federal partners for signature; and
 - The appropriate CREP instances have been mapped in the AgBMP Tracking Module with Resource Reviews completed, including consultations with Resource Partners (e.g. DCR-DNH, DHR, DWR) if necessary*.
- 3) Once the local District confirms the items listed above are complete, the District will set the status of the CREP instances in the AgBMP Tracking Module to “*Funds Pending Approval*.”
- 4) The AgBMP Tracking Module automatically notifies the Department’s Agricultural Incentives Program Manager of the need to review any CREP practices in pending status; once reviewed, the Manager will switch the status to “*Funding Availability Confirmed*” if funds are available.
- 5) The District Board of Directors shall only approve CREP cost-share applications after funding availability has been confirmed by the Department. The NRCS Conservation Plan shall also be approved by the District Board.
- 6) Following funding confirmation to the District, the Department will notify FSA that state match is available.
- 7) FSA will follow established procedure regarding CREP application approvals.

*Note: USDA partners should be providing the local District with a copy of the completed CPA-52 Environmental Evaluation Worksheet. If the resource concerns identified in the state Resource Review are all documented on and addressed by the CPA-52, the District should simply maintain a copy of the CPA-52 in the contract file with appropriate notations in the conservation planning notes. If any resource concerns identified in the state Resource Review are not documented on and addressed by the CPA-52, then the District should move forward with formal consultation with state Resource Partners (e.g. DCR-DNH, DHR, DWR).

Program Area

Starting on July 1 of 2019, all hydrologic units in Virginia are eligible for CREP, with the exception of a few hydrologic units in Dickenson County, Virginia, as shown on the DCR CREP website: <https://www.dcr.virginia.gov/soil-and-water/image/crep-ineligible-2019.png>

Program Eligibility

The Farm Service Agency is responsible for determining producer eligibility. The basic eligibility criteria for the existing CRP will apply. Cropland must have a cropping history for four out of the last six years. NRCS will verify land eligibility by visiting each proposed CREP site while

developing a Farm Conservation Plan and laying out the CREP buffer. Permanent hayland and forested land is not considered cropland for this program. Municipalities or other governmental agencies are not eligible to receive the Virginia portion of CREP rental and cost-share assistance. Lands located outside of the state are not eligible. The minimum Virginia CREP contract accepted is a tenth (.1) of an acre.

The CREP and Virginia Agricultural Best Management Practices Cost Share Program (VACS) are in general mutually exclusive conservation programs; practices addressing the same resource concerns may not be applied simultaneously in the same field. However, there are three VACS practices that are exceptions to this and are allowed to be applied for simultaneously with other CREP practices: those practices are SL-7 (Extension of Watering Systems), SL-11 (Permanent Vegetative Cover on Critical Areas), and WP-2A (Streambank Stabilization).

CREP Enrollment

Beginning July 1, 2016, Districts are advised to require participants with approved FSA CREP contracts to sign VA Contract Part I. A signature on this documentation establishes the contractual relationship between the program participant and the District. This contractual relationship is needed to assure that Districts have the right to request the return of all or part of the state CREP cost-share financial assistance and/or tax credit payments if the conservation practice(s) is/are removed or not properly maintained in accordance with program requirements during the lifespan of the practice(s).

A District Board member must sign the “District Authorization” section of the Contract Part II, acknowledging official District Board approval of the CREP contract. CREP participants must also sign the Contract Part III, “Participant Practice Installation Certification,” prior to the release of the state’s portion of the CREP cost-share and rental payment.

CREP and The Chesapeake Bay Preservation Act (the Act) and The Chesapeake Bay Preservation Area Designation and Management Regulations (the Regulations)

The Regulations require the protection of surface waters from agricultural runoff by requiring buffers extending landward from the top of bank on all agricultural lands adjacent to identified Resource Protection Areas (RPA). The width of the required buffer is dependent upon the number and types of agricultural BMPs that are implemented on the agricultural lands that contribute runoff. If at least three BMPs (Nutrient Management, Conservation Tillage and Integrated Pest Management) are being implemented on the upland production areas, the required 100 foot buffer may be reduced to 25 feet in width beginning at the top of the protected water feature’s bank within the Resource Protection Area (RPA). The VACS Program does not provide financial incentives for minimum actions that are mandated under law or regulation. Therefore, Districts should only pay an incentive on 10 feet of a required minimum width (35 feet) CREP buffer, as the first 25 feet of buffer is required under the Regulations. Other CREP cost-share payments should not be impacted as neither the buffer planting nor the protection of the buffer area is required under the Regulations.

Eligible Practices

The continuous sign-up CRP program offers several different practices. However, the Virginia CREP presently only offers four of these practices as listed below. The following entries will be made into the AgBMP Tracking Module. **Please remember that the average buffer width for any buffer practice should be recorded in the Tracking Program.**

- 1) **CP-21** CREP Grass Filter Strip Rent (Tracks state funds spent enhancing the FSA rental payment): Thirty-five feet (35') minimum and one hundred feet (100') maximum, on cropland only. CREP participants may plant native warm season grasses (NWSG) on cropland. This BMP will record the number of acres of buffer restored, the site location, and state's enhancement of FSA's rental payment. The rental payment may be made after all state conservation practices have been installed and certified by NRCS. The state's portion of the rental payment is calculated based upon the FSA SIP payment calculation as follows: (Buffer Acres) X (\$5) X (Full years in CREP Contract*) = State Rental Payment as documented in Field 9, "Contract Period" of the CRP-1.

AND

CRWQ-1 CREP Herbaceous Riparian Buffers: Native warm season grass (NWSG) filter strips are authorized to be planted under CREP CP-21 practice. This BMP records the site location, acres, and the state's portion of the cost-share payment for planting of the NWSG filter strip.

OR

CRFR-3 CREP Woodland Buffer Filter Area: Records the site location, acres, average buffer width and state's portion of cost-share for the planting of hardwood seedlings needed to restore riparian forest buffers. Any naturally regenerated buffers (i.e. those buffers restored without planting seedlings) should be recorded using this practice code.

AND

CRLF-1 CREP Linear Foot of Streambank Protected: This code is entered as a reporting marker to capture the linear feet of streambank that was protected by the installation of the NWSG filter strip. The entry of the linear feet of streambank protected by the installation of the filter strip, forested buffer or natural regeneration of a forested buffer allows the state to receive credit for restoring linear feet of riparian buffer since there is no fencing practice to install.

OR

CRWP-2 CREP Stream Protection: if any fencing is installed to protect the NWSG buffer.

- 2) **CP-22** CREP Riparian Forest Buffer (Tracks state funds spent enhancing the FSA rental payment): Thirty-five feet (35') minimum, and three hundred feet (300') maximum on marginal pastureland or cropland. This BMP will record the number of acres of buffer restored and the state's enhancement of FSA's rental payment for riparian forest buffers on marginal pastureland or cropland. The rental payment can be made after all state conservation practices have been installed and certified by NRCS. The state's portion of the rental payment is calculated based upon the FSA SIP payment calculation as follows: (Number of buffer acres planted) X (\$5 per year) X (number of full years in the CREP contract) as documented in Field 9, "Contract Period" of the CRP-1.

AND

CRFR-3 CREP Woodland Buffer Filter Area: Records the site location, acres, average buffer width and state's portion of cost-share for the planting of hardwood seedlings needed to restore riparian forest buffers. Any naturally regenerated buffers (i.e. those buffers restored without planting seedlings) should be recorded using this practice code.

AND

CRSL-6 CREP Stream Exclusion with Grazing Land Management: Records the site conditions, linear feet of streambank protected and the state's portion of the cost-share payment for alternative watering systems installed as a livestock water source and fencing installed to protect restored riparian buffers or implement rotational grazing.

OR

CRWP-2 CREP Stream Protection: Records the site conditions, linear feet of streambank protected and the state's portion of the cost-share payment on fencing and alternative watering systems that utilize hardened crossings as a livestock water source.

OR

CRLF-1 CREP Linear Foot of Streambank Protected: This code is entered as a reporting marker to capture the linear feet of streambank that was protected by the installation or natural regeneration of a forested buffer that is not protected by a fencing practice (CRSL-6 or CRWP-2 above). The entry of the linear feet of streambank protected by the restoration of the buffer allows the state to receive credit for restoring that many linear feet of riparian buffer when there is no fencing practice to install.

AND/OR

CRWQ-11 CREP Agricultural Sinkhole Protection: Should be reported when CREP is applied to karst pasture sinkholes; practice removes and disposes of non-woody sources of pollution from sinkholes only. Fencing and buffer plantings to protect the sinkhole should be reported as a CRSL-6 or CRWP-2 as appropriate and CRFR-3 respectively.

AND

SL-7 Virginia Agricultural Best Management Practice Cost-Share Program (VACS) funded practice that provides an incentive to extend any CREP CP-22 watering systems to adjacent grazing paddocks that did not contribute acreage to the CREP buffer restoration (for Chesapeake Bay CREP Conservation Plans signed after July 1, 2009 only). Starting with the 2010 Program Year in the Chesapeake Bay CREP and 2012 Program Year in the OCB CREP, the Virginia Agricultural BMP Cost Share Program support for extension of CREP watering system practice (SL-7) may be utilized. In an effort to fully enroll CREP, the Virginia Agricultural BMP Cost-Share Program has chosen to provide financial support to expand the CREP installed watering systems to serve grazing units that did not provide any acres to the CREP buffer restoration. The SL-7 practice will be recorded in the AgBMP Tracking Module as a VACS practice; the expenses associated with the support of these watering systems cannot be used as part of the required state enhancement payment associated with CREP implementation.

SL-7 Extension of Watering Systems: Payment of VACS funds will be authorized from either CB or OCB BMP cost-share funds and may be used to install grazing management fencing, pipelines, and water developments in adjacent pastures that are ineligible for CREP. An NRCS approved Prescribed Grazing Plan and Operations and Maintenance Plan must include all grazing paddocks where either CREP or VACS cost-shared components are installed. The SL-7 shall be assigned a contract lifespan matching that of the CREP contract.

- 3) **CP-23 CREP Wetland Restoration Rent:** If the wetland restoration will exceed 40 acres, NRCS must recommend that the land be enrolled under the CP-23 and the not-to-exceed-40-acre limitation be waived because of the environmental benefits.

AND

CRWQ-6B CREP Wetland Restoration: Records the site location, acres of wetlands restored, average buffer width and state's portion of the cost-share payment. The acres of buffer and wetland should be combined when reporting this CREP practice only.

AND

CRFR-3 CREP Woodland Buffer Filter Area: Records the site location, acres, average buffer width and state's portion of cost-share for the planting of hardwood seedlings. Any naturally regenerated buffers (i.e. those buffers restored without planting seedlings) should be recorded using this practice code.

- 4) **CP-29 CREP Wildlife Habitat Buffer** (Tracks state funds spent enhancing the FSA rental payment: Fifty feet (50') minimum and one hundred and twenty foot (120') maximum on marginal pasture. This BMP will record the acres and the state's portion of the rental payment for a "Marginal Pasture Land Wildlife Habitat Buffer." The payment can be made after all state conservation practices have been installed and certified by NRCS. The state's portion of the rental payment is calculated following the FSA SIP payment calculation as follows: (Number of buffer acres planted) X (\$5 per year) X (number of full years in the CREP contract) as documented in Field 9, "Contract Period" of the CRP-1).

AND

CRWQ-1 CREP Herbaceous Riparian Buffers: Herbaceous buffers are planted under this CREP practice. This BMP records the site location, acres, average buffer width and state's portion of the cost-share payment for planting of a herbaceous buffer.

AND

CRSL-6 CREP Stream Exclusion with Grazing Land Management: Records the site location, linear feet of streambank protected and the state's portion of the cost-share payment for alternative watering systems that utilize ponds, spring developments, or wells as a livestock water source.

OR

CRWP-2 CREP Stream Protection: Records the site location, linear feet of streambank protected and the state's portion of the cost-share payment on fencing and systems that utilize hardened crossings as a livestock water source.

OR

CRLF-1 CREP Linear Foot of Streambank Protected: Reporting marker for entering the linear feet of streambank protected into the Tracking Program by removing of livestock from marginal pastureland when no fencing is installed or the planting of a riparian buffer (CRFR-3) on cropland.

OR

CRWQ-11 Agricultural Sinkhole Protection: Should be reported when CREP is applied to karst pasture sinkholes; practice removes and disposes of non-woody sources of pollution from sinkholes only. Fencing and buffer plantings to protect the sinkhole should be reported as an SL-6 or a WP-2 and CRFR-3, respectively.

All CREP Best Management Practices are subject to applicable NRCS *Field Office Technical*

Guide standards as itemized in Technical Specifications Section of the *Virginia Agricultural BMP Manual*. The CREP practices will be administered using the same processes and administrative procedures as identified in the VACS Program Guidelines, except as otherwise expressly provided in this document.

Program Sign-Up

Applicants wishing to participate in the Virginia CREP must sign up at the local FSA county office by completing a CRP-2. The FSA county office will inform the local District of the applicant's intent and supply the District with all necessary documentation including the CRP-2C offer form and location map. Upon receipt of this documentation, the local District will contact the applicant and obtain a signed W-9 tax form and VA Contract Part I.

Participant Notification

The FSA county office will notify each applicant of his/her eligibility. Upon approval of the CREP application by the local District Board of Directors, the local District office will notify the applicant of the estimated cost-share payment of the approved Virginia CREP contract. This will prevent an over-allocation of funds by establishing an approved maximum payment based on the estimated cost.

Payments

Virginia CREP contracts are to be implemented with a combination of funding from state and federal sources. State payments are issued by Districts and must reflect the appropriate cost-share and rental rates for the Program. Payments are issued after FSA has completed FSA Form 848 and submitted copies to the District. Once the District receives the signed Form 848, the District should ensure the Contract Part III is completed including participant and technical certification signatures.

State cost-share payments for CREP BMPs will be issued after all components of the specific state BMPs are completed according to the state requirements, as listed in this CREP Section of the *Virginia Agricultural BMP Manual*. State rental payments for CREP will be issued when all BMPs in the CREP contract are complete and certified by the District.

Cost-Share Rate

FSA's CREP cost-share rate for applicable BMPs is based upon 50% of the eligible cost for component installation, not to exceed a maximum amount for certain components, such as water developments, pipeline, and watering facilities implemented. This cost estimate is generated by the local NRCS District Conservationist and supplied to FSA on the contract support document.

Virginia has modified its cost-share rate several times throughout the life of CREP. All cost-share rate changes have been based upon the date of the last signature obtained on the Farm Conservation Plan developed for the CREP project.

Starting July 1, 20~~22~~²⁴, Virginia will pay up to ~~50~~⁵³~~5~~⁵% of eligible cost for select CREP practices. For these practices, calculations will be made to determine the least costly alternative: ~~50~~⁵³~~5~~⁵% of FSA eligible cost or a state cost-share payment equal to ~~100~~¹⁰⁰~~70~~⁷⁰% of the FSA authorized cost-share payment.

Rental Rate

FSA will determine the federal CREP Rental Rate to be paid each year of the contract based upon approved soil rental rates (SRR) for each county.

Cropland: A weighted average SRR for the three predominant soils on the eligible acreage offered.

Pastureland: The county average soil rental rates for marginal pasture.

An annual 120% incentive payment will be added to the approved FSA county SRR per acre, as well as a \$5 per acre per year maintenance fee. However, rental rates and associated payments are capped at a maximum of \$100/acre in the Chesapeake Bay basin and \$90 per acre in the Southern Rivers basin.

The Commonwealth of Virginia will also pay a rental rate of \$5 per acre per full year of the CREP contract as a lump sum to be paid when all BMPs are completed and certified.

Federal CREP Incentive Payments

A federal Signing Incentive Payment (SIP) will be paid by FSA; this onetime payment will equal \$100 per acre. The SIP payment will be made when the CREP contract (CRP-1) has been approved and signed by the program participant.

A federal Practice Incentive Payment (PIP) will be paid by FSA on CP-21, CP-22, and CP-29 conservation practices; this one-time payment will equal 40% of the eligible cost of each component of an approved conservation practice. FSA will issue the PIP payment after all components of approved conservation practices have been completed and certified by NRCS.

A federal Hydrologic Bonus Payment will be paid by FSA on CP-23 conservation practices; this one-time payment will equal 25% of the eligible cost of the approved cost of restoring the wetland hydrology on prior converted wetlands and farmed wetlands. FSA will issue the Hydrologic Bonus payment after all components of approved conservation practices have been completed and certified by NRCS.

As set forth by Virginia Code, the Commonwealth currently provides a tax credit for implementation of certain agricultural best management practices as discussed in the Tax Credit Guidelines of the VACS Manual. Receipt of the above approved federal incentive payments should not be considered during calculations to determine state cost-share or tax credit amounts.

State CREP Incentives

Virginia has provided additional financial bonuses as incentives to increase the rate of enrollments

of certain practices that provide desirable environmental benefits and support environmental goals.

Beginning July 1, 2011, approved CP-22 practices may be approved to receive a VACS SL-7 practice incentive payment that may be utilized to expand the CREP watering system in the CREP eligible OCB and Chesapeake Bay drainage basins. Previously approved CREP contracts (i.e. signed prior to July 1, 2011), may not be cancelled and re-approved to take advantage of this additional funding.

Additionally, while the Commonwealth is not typically involved in CREP reenrollments initiated by the Farm Service Agency, the Commonwealth does allow reenrolling CREP participants with expired contracts to participate in the Continuing Conservation Initiative (CCI) options in the VACS Program.

State Documentation

Districts will retain all supporting data in their files according to the following unless notified by the Department. This will include signed copies of DCR Form 199-071, Contract Part I and Part III.

Districts must file their copy of all CREP related forms within the participant's folder. Conservation Plans and practice design sheets should be kept with individual case files according to NRCS policy. Districts shall keep copies of the appropriate FSA forms (CRP-1, CRP-2C and appropriate 848(s)), the USDA Conservation Plan, the plan map, the CPA-52 Environmental Evaluation Worksheet, the state resource review query and any supporting documentation, the W-9 tax form, and a copy of DCR Form 199-071 or Parts I, II, and III of the Virginia BMP Incentives Program Contract in the participant's folder. FSA will keep all billings and expense records.

Districts must provide an Internal Revenue Service Form 1099-G to any Virginia CREP participant who receives \$600 or more in state payment(s) per their Federal Taxpayer Identification Number or Social Security Number during the calendar year. Districts must also file IRS Form 1099-G and Form 1096 with the Internal Revenue Service in accordance with IRS regulations.

Data Reporting

In order to adequately track program effectiveness and to make necessary management decisions, it is vital that all data requested in the AgBMP Tracking Module be generated and entered into the Module in a timely fashion.

DCR regional CDCs will officially collect data and run reports for all programs quarterly. All necessary data should be entered into the AgBMP Tracking Module no less than on a weekly basis. Districts are to ensure that the status and data associated with each practice entered into the AgBMP Tracking Module is updated in a timely fashion and is kept as accurate as is possible. A Quarterly Budget Report that estimates funding needs for the coming quarter will be generated by the Module and monitored by the CDCs. In order to receive funding in an accurate and timely fashion, Districts need to be diligent about updating practice data continuously. CDCs will verify

the need for disbursement of cost-share funds prior to generating and authorizing disbursement request letters.

Data reporting for the end of the Program Year shall include an accounting of all CREP funds held by the District. These funds shall be identified as to whether the funds are obligated to a particular CREP practice presently under construction or un-obligated.

Inspections and Spot Checks

All Virginia CREP contracts are subject to inspection for program compliance during the life of the contract. Technical inspection and certification of completed CREP conservation practices is the responsibility of FSA and the Natural Resource Conservation Service. CREP conservation practices are subject to spot checks by FSA personnel throughout the life of the contract.

Questions

Questions concerning federal policies of the Virginia CREP should be directed to the local FSA or NRCS county office. Questions concerning state policies of the Virginia CREP that are not addressed in this Manual should be directed to either the DCR Conservation District Coordinator or to the Agricultural Incentives Program Manager.

Revised April 2021

Counties Included in the CREP Area

CHESAPEAKE BAY

All counties and hydrologic units with Chesapeake Bay drainage are eligible for CREP.

OUTSIDE THE CHESAPEAKE BAY

Counties and hydrologic units with Outside the Chesapeake Bay drainage are eligible for CREP with the exception of certain hydrologic units within Dickenson County. The only hydrologic units in Dickenson County that are eligible for CREP are: BS22, BS23, BS24, BS25, TC15, and TC17.