COMMONWEALTH of VIRGINIA

VIRGINIA'S NONPOINT SOURCE (NPS) IMPLEMENTATION BEST MANAGEMENT PRACTICE (BMP) GUIDELINES

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Virginia Department of Environmental Quality
Division of Water Planning, Office of Watershed and Government Assistance Programs
1111 East Main Street
Richmond, Virginia 23219
https://www.deq.virginia.gov/water/water-quality/nonpoint-source-management

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

Updated 6/30/2021

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA'S NONPOINT SOURCE (NPS) IMPLEMENTATION
BEST MANAGEMENT PRACTICE (BMP) GUIDELINES - Updated 7/1/2021

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Disclaimer: This document sets forth standard operating procedures for the Nonpoint Source (NPS) Implementation program. However, it does not mandate or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations. Questions concerning any aspect of the cost-share program that are not addressed in these guidelines should be directed to either the NPS Project Managers or to the NPS Project Coordinator (NPSgrants@DEQ.Virginia.gov).

Cost-Share Program Implementation Schedule

For all Grantees: Grantees should keep track of key dates during the fiscal year as related to project activity and reporting to keep their projects on schedule. Every Grantee should adhere to the activity schedules addressed in the Milestone Table (Form C1) contained in their executed agreement. The schedules contained in this manual are reminders of general programmatic activities and goals. As per the executed DEQ agreement, all payments for cost-share practices must be recorded on the Form B1 and shall only include those practices that are completed and paid by the end of the report period.

Sample Cost-Share Program Implementation Schedule: Grant started January 1, 2021 and ends June 30, 2022

Due Dates	Year 1: July 1, 2021 - June 30, 2022 Deliverable(s)	Year 2: July 1, 2022 - June 30, 2023 Deliverable(s)
July 15	Quarterly report for April 1-June 30 **SWCDs Using DCR BMP Tracking System only**: Must provide a copy of carryover and year-end reports with quarterly report	Quarterly report for April 1-June 30 (Optional; can be included in Final Report)
July 30	N/A	Final report is due to DEQ within 30 days after the end of the contract period. **SWCDs Using DCR BMP Tracking System only**: Must provide a copy year-end report
Aug 31	Residential Program Guidelines Update to address any changes to residential program guidance	N/A
Oct 15	Quarterly report for July 1 - September 30	N/A
Jan 15	Quarterly report for October 1 - December 31	N/A
Jan 31	Semi-Annual or Annual Satisfactory Progress Review to assess project implementation	N/A
April 15	Quarterly report for January 1 - March 31	N/A
June 30	**SWCDs Using DCR Tracking System only:** BMPs entered into the tracking system must be identified as (1) completed, (2) canceled, or (3) carry over (if meets NPS program eligibility guidelines). All completed BMPs are to be paid and marked as "complete" in the DCR BMP Tracking System by this date. No approved or requested practices may exist after June 30 of the program year.	

- All quarterly and final reports must be sent to OFM@DEQ.Virginia.gov.
- All residential program guideline updates must be sent to NPSgrants@DEQ.Virginia.gov.
- All Semi-Annual or Annual Satisfactory Progress Reviews are conducted by NPS Project Managers.
- All Districts Using DCR's BMP Tracking System will submit BMPs directly.
- All quarterly reports must include documentation that BMPs have been reported via either DCR's BMP Tracking System or DEQ's BMP Warehouse.

SECTION I - VIRGINIA NONPOINT SOURCE (NPS) IMPLEMENTATION BEST MANAGEMENT PRACTICE (BMP) COST-SHARE PROGRAM

1. Overview

Virginia's nonpoint source (NPS) implementation program is administered by the Virginia Department of Environmental Quality (DEQ) through local Soil and Water Conservation Districts (SWCD or District), local governments, state agencies, nonprofits, planning district commissions (PDC), and local health departments to improve water quality in the Commonwealth's streams and rivers and in the Chesapeake Bay. DEQ, through its partners, provides cost-share assistance to landowners, homeowners, and agricultural operators as an incentive to voluntarily install nonpoint source (NPS) best management practices (BMPs) in designated watersheds. The program uses funds from a variety of sources, including but not limited to EPA 319(h) and the state-funded Water Quality Improvement Fund (WQIF) to install BMPs with the goal of ultimately meeting Virginia's NPS pollution water quality objectives. This manual addresses cost-share assistance on agricultural, residential, and urban lands. The geographic extent of eligible lands is identified for each funding cycle in DEQ's Requests for Applications (RFA) and associated grant agreements. RFAs typically target watershed-based plans (WBPs) including TMDL implementation plans (IPs) approved by DEQ and the United States Environmental Protection Agency (EPA).

The Virginia NPS implementation program is partially funded with federal Section 319(h) funds; therefore, the program must meet certain federal requirements. The main difference between other funding programs and the NPS cost-share program is that NPS funding is utilized only in targeted watersheds and for specific BMPs. Unlike state cost-share funds, federal 319(h) funds do expire, and the use of those funds after the period of the federal grant award period is prohibited. Programs at DEQ other than those funded by Section 319(h) may be used to fund BMPs listed in this manual (e.g., residential septic BMPs). As such, the specifications and cost-share rates of those BMPs would be applied to these other programs.

DEQ's NPS implementation program provides cost-share assistance to implement BMPs identified in TMDL IPs with the goal of achieving watershed restoration, water quality improvements, eventual delisting of impaired stream segments, and documentation of NPS Success Stories [1][1]. Grantees managing 319(h)-funded implementation projects must utilize this manual and follow the above Cost-share Implementation Project Schedule. A list of active 319(h)-funded projects can be found on DEQ's TMDL Implementation Projects[2] page.

[1] URLs of websites referenced in this document are available in Section III Program References. The number in brackets following each online reference indicates the number of the corresponding URL in Section III.

2. Eligible Practices

The NPS implementation program supports a variety of practices, although only eligible practices within a particular implementation watershed are specified in the grant agreement for the implementation project. To be eligible for funding, practices must meet the specifications set forth in Virginia's NPS Implementation Best Management Practice Specifications[40] (NPS BMP Specifications).

IN THIS SECTION:

2.1 Eligible practices and where to find practice specifications
- **Requirement for urban/suburban BMP work**
- **Land conservation easement funding eligibility**
- **Table 1: Virginia DEQ NPS implementation BMPs**
- **Table 2: Non-DEQ Virginia BMPS**

2.2 Changes in practices due to DCR VACS program changes

2.1 Eligible Practices and Specifications

Eligible BMPs include agricultural BMPs (EM-1T, EM-1AT, and SL-6AT), residential septic BMPs (RB-1, RB-2/2P, RB-3/3M, RB-4/4P and RB-5), and pet waste BMPs (PW-1 and PW-2) as described in the NPS BMP Specifications[40], as well as certain eligible agricultural BMPs that are described in the Department of Conservation and Recreation's (DCR) Agricultural Cost-share BMP Manual[3]. The NPS program also funds certain urban practices described by the Virginia Stormwater BMP Clearinghouse[4] and the Virginia Stream Restoration and Stabilization Best Management Practices Guide[5], as well practices described by the Virginia Conservation Assistance Program[6] (VCAP) in the VCAP Manual[7]. In addition to adhering to the program guidelines described in this document, Grantees using DEQ NPS funds to implement these BMPs must follow the applicable BMP guidelines where appropriate.

The NPS BMP Specifications[40] listed in Table 1 include: EM-1T, EM-1AT, SL-6AT, RB-1, RB-2/2P, RB-3/3M, RB-4/4P, RB-5, PW-1, PW-2, and PW-3. All BMPs listed in Table 1 have DEQ-developed specifications and are eligible for 319(h) funding. All non-DEQ BMPs listed in Table 2 have specifications referenced in other sources (manuals, guidelines, etc.) but are eligible for 319(h) and other DEQ grant funds. Specifications for agricultural BMPs listed in Table 2 without "T" notation in the BMP code can be found in DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3].

- **Urban/Suburban BMPs**: The NPS program requires, when possible and appropriate that grantees follow VCAP specifications and cost-share rates as well as other components listed in the VCAP Manual[7]**.** This will provide consistency for 319(h)-funded urban/suburban projects. Note that NPS-funded projects utilizing VCAP materials are not VCAP projects themselves and are not administered by the Virginia Association of Soil and Water Conservation District's Virginia Conservation Assistance Program.
- **Land conservation easements:** If identified as a corrective action in the TMDL IP and identified in the grant contract scope of work as a listed activity with goals and deliverables, then land conservation easements would be eligible for funding.

Regardless of a BMP's specification source, contractual agreements with DEQ will include a specific list of BMPs approved for that area, and only those BMPs included in an executed DEQ grant agreement are eligible for funding in the area covered by that agreement. Specific BMPs eligible for cost-share assistance

in a project area depend on what type of impairment(s) are being addressed there (e.g., benthic and/or bacteria). Grantees cannot modify or change BMP standards and specifications.

Table 1: Virginia DEQ NPS Implementation BMPs

BMP Code	Agricultural BMP Name	Revision Date	Source	Tax Credit	319(h) eligible	BMP Units
EM-1T	Small Scale Manure Composting for Equine Operations – Static Systems (Demonstration Only)	7/2018	DEQ	No	Yes	# of Systems and # of Animals (horses)
EM-1AT	Small Scale Manure Composting for Equine Operations – Aerated Systems (Demonstration Only)	7/2018	DEQ	No	Yes	# of Systems and # of Animals (horses
SL-6AT	Small Acreage Grazing System	7/2019	DEQ	Yes	Yes	# of Systems
BMP Code	**Residential Septic and Pet Waste BMP Name**	**Revision Date**	**Source**	**Tax Credit**	**319(h) eligible**	**BMP Units**
RB-1	Septic Tank Pump-out	7/2020	DEQ	n/a	Yes	# of Systems
RB-2	Connection to Public Sewer System	7/2020	DEQ	n/a	Yes	# of Systems
RB-2P	Connection to Public Sewer System with Pump	7/2020	DEQ	n/a	Yes	# of Systems
RB-3	Onsite Sewage System Repair	7/2020	DEQ	n/a	Yes	# of Systems
RB-3M	Conventional Onsite Sewage System Full Inspection and Maintenance	7/2021	DEQ	n/a	Yes	# of Systems
RB-4	Onsite Sewage System Installation/Replacement	7/2020	DEQ	n/a	Yes	# of Systems
RB-4P	Onsite Sewage System Installation/Replacement with Pump	7/2020	DEQ	n/a	Yes	# of Systems
RB-5	Alternative Sewage System	7/2020	DEQ	n/a	Yes	# of Systems
PW-1	Pet Waste Disposal Station	7/2017	DEQ	n/a	Yes	# of Systems
PW-2	Pet Waste Digesters, Composters, and Fermentation	7/2017	DEQ	n/a	Yes	# of Systems
PW-3	Wastewater Treatment System for Confined Canine Facilities (CCF) (Demonstration Only)	7/2021	DEQ	n/a	Yes	# of Systems, # of Animals (dogs)

Table 2: Non-DEQ Virginia BMPs

BMP Code	Agricultural BMP Name (See Virginia Agricultural Cost-share (VACS) BMP Manual[3])	Tax Credit	319(h) eligible	BMP Units
FR-1	Aforestation of Erodible Crop and Pastureland	Yes	Yes	See DCR
FR-3	Woodland Buffer Filter Area	Yes	Yes	See DCR
SL-1	Long Term Vegetative Cover on Cropland	Yes	Yes	See DCR
SL-6N	Stream Exclusion with Narrow Width Buffer and Grazing Land Management	Yes	Yes	See DCR
SL-6W	Stream Exclusion with Wide Width Buffer and Grazing Land Management	Yes	Yes	See DCR
SL-7	Support for Extension of Watering Systems	Yes	Yes	See DCR
SL-8B	Small Grain and Mixed Cover Crop for Nutrient Management	Yes	Yes	See DCR
SL-10	Prescribed Grazing Land Management	Yes	Yes	See DCR
SL-11	Permanent Vegetative Cover on Critical Areas	Yes	Yes	See DCR
WP-2A	Streambank Stabilization	Yes	Yes	See DCR
WP-2N	Stream Protection (Fencing with Narrow Width Buffer)	Yes	Yes, 10-year lifespan only. 319(h) funding cannot exceed 100% of the practice cost.	See DCR
WP-2W	Stream Protection (Fencing with Wide Width Buffer)	Yes	Yes, 10-year lifespan only. 319(h) funding cannot exceed 100% of the practice cost.	See DCR
WP-3	Sod Waterway	Yes	Yes	See DCR
WQ-1	Grass Filter Strips	Yes	Yes	See DCR
WQ-11	Agricultural Sinkhole Protection	Yes	Yes	See DCR
BMP Code	**Urban and Suburban BMP Name (list not exhaustive)** (See specifications: Virginia Stormwater BMP Clearinghouse[4] and in the VCAP Manual[7])	**Tax Credit**	**319(h) eligible**	**BMP Units**
n/a	Stream Restoration/Stabilization	n/a	Yes	Linear Feet
n/a	Riparian Buffer Establishment (planting)	n/a	Yes	Acres
n/a	Infiltration Practices (trench, basins, etc.)	n/a	Yes	Acres-treated
n/a	Rainwater Harvesting (rain barrels, cisterns, etc.)	n/a	Yes	TBD
n/a	Bioretention (rain gardens, etc.)	n/a	Yes	Acres-treated
n/a	Wet/Dry Swales	n/a	Yes	Acres-treated
n/a	Permeable Pavement	n/a	Yes	TBD
n/a	Constructed Wetlands	n/a	Yes	TBD
n/a	Green Roofs	n/a	Yes	Square Feet
n/a	Urban Nutrient Management Planning	n/a	Yes	Acres
n/a	Wet/Dry Ponds	n/a	Yes	Acres-treated
n/a	MTD Devices	n/a	Yes	Square Feet

2.2 Changes in Practices Due to DCR VACS Program Changes

For FY20 and FY21, DCR made major changes to some agricultural specifications stemming from an enhanced Agricultural Technical Advisory Committee that met in 2018, 2019, and early 2020. This committee created new practices, "retired" older practices, and modified others. The DEQ NPS program has, when possible, adhered to DCR agricultural specifications with the exception of the handful of "T" practices. Section 319(h) funds will be available for cost-share of DCR practices based upon DCR's published specifications.

- **SL-6N and SL-6W**: DCR has discontinued the SL-6 practice and replaced it with SL-6N (narrow width buffer) and SL-6W (wide width buffer). These practices also allow for varying cost-share rates depending on lifespan (10-15 years) and buffer width. Section 319(h) funds may be used to partially or fully fund these practices following the DCR VACS specifications and rules with the following stipulations:

- Section 319(h) cannot exceed 100% of the total practice cost, which the Section 319(h) program defines for the SL-6W as the approved or actual cost to install the BMP *plus* the buffer payment rate. For example, if the total installation cost for an SL-6W practice is $50,000 with a total buffer payment of $8,000, the total practice cost is $58,000. In this case, the participant could not receive more than $58,000 in payments for this practice.
- 319(h) can fund the buffer payment rate following the DCR specifications and participant cap. This includes, for example, the case of a SL-6W with at least a 50-foot buffer and 15-year lifespan, which allows for 100% cost-share plus an $80 per acre per year buffer payment rate. DEQ encourages Districts to fund these practices jointly with 319(h) and VACS. Jointly funded practices not only extend the use of 319(h) funds, but are also covered under the spot check process led by DCR and the SWCDs. Even splits of 95% 319(h) and 5% VACS are eligible.

- **WP-2N and WP-2W**: DCR has replaced the WP-2 practice with WP-2N and WP-2W. These practices allow for varying cost-share rates depending on lifespan (5 or 10 years) and buffer width. Section 319(h) funds can be utilized to cost-share on these new practices following the DCR VACS specifications and rules, with the following stipulations:
  - Section 319(h) cannot exceed 100% of the total practice cost. The Section 319(h) program considers the total practice cost to be the approved or actual cost to install the BMP plus the buffer payment rate. Section 319(h) can only fund the 10-year lifespan options for either practice; the 5-year lifespan options are not eligible. Section 319(h) can fund the buffer payment rate for the WP-2W following the DCR specification and buffer payment cap (with the exception of not funding 5-year lifespans).

Impact to executed agreements: All current executed agreements that list LE-1T, LE-2T, or WP-2T as their practices will be allowed to use 319(h) to fund the new VACS practice equivalents (SL-6N, SL-6W, WP-2N, WP-2W), as of July 1, 2019. DEQ will determine the best way to authorize this change and communicate that to grantees. DEQ will also request that DCR make changes to the program names in the DCR BMP Tracking System to allow these additional practices.

3. Implementation Funding Restrictions

DEQ awards grant funding for implementation projects with restrictions and stipulations by which the Grantee and participant must abide to remain eligible. Understanding of these conditions is necessary for the Grantee to remain in compliance with the funds' agreed-upon use.

IN THIS SECTION:

3.1 Funding sources and the prohibition of earning interest on federal 319(h) funds
3.2 Limits and restrictions on use of 319(h) funding in association with permits, mitigation banking, and nutrient credits
3.3 Re-obligation of 319(h) BMP cost-share allocations
3.4 Conflict of interest disclosure requirements
3.5 Other restrictions
3.6 Noted differences between Section 319(h) and WQIF Non-agricultural nonpoint funding

3.1 Funding Sources and Interest Income Earned

The Virginia NPS implementation program is partially funded with federal Section 319(h) funds, which are not permitted to accrue interest. All funds issued to Grantees must be placed in a non-interest-bearing account. DEQ administers NPS cost-share funds based upon signed cost-share grant agreements. Other funds from local, state, federal, or private sources may support implementation of BMPs. For practices receiving DEQ grant funds, the combination of federal Section 319(h) and other funds cannot exceed 100% cost-share.

3.2 Limits and Restrictions to Use of 319(h) Funding

Federal Section 319(h) funds may not be used to pay for BMPs that will be credited toward activities related to developing, implementing, or meeting any National/Virginia Pollution Discharge Elimination System (NPDES/VPDES) permits or permit requirements. Please note that 319(h) funds cannot be used to fulfill any NPDES permit requirements including but not limited to: MS4, combined sewer overflows (CSOs), concentrated agricultural feeding operations (CAFOs), wastewater, and discharging onsite septic systems. Federal 319(h) funds can be used by localities with municipal separate storm sewer systems (MS4s) in a limited capacity. Funds may be applied toward any urban stormwater activities that are not explicitly required in an MS4 NPDES permit or in a plan required by the permit. Thus, any activities that an MS4 locality will "credit" toward meeting its permit requirements, count toward a TMDL Action Plan or Bay Action Plan, or use to develop a permit are not eligible for 319(h) funds. In addition, the funds may not be used in relation to mitigation banking or nutrient credit trading. If at any time it is determined that 319(h) grant funds were utilized in association with the above-described permits, mitigation banking, or nutrient crediting, the practice will be determined to be "failed" (see Practice Failures section) and the Grantee and program participant may be liable for reimbursement of all funds associated with the installed practice(s). Any grantee receiving Section 319(h) funds from DEQ must agree to these limitations and restrictions.

3.3 Re-obligation of 319(h) Cost-share BMP Funding

At the end of each quarter, the Grantee should perform an assessment of the status of cost-share funds to determine progress toward project goals. The quarterly assessment will be based upon the financials

reported and a completed BMP report. Grantees should include a list of completed BMPs in their quarterly report; Districts can run a completed-practices report retrieved from the DCR BMP Tracking System and compare the number of BMPs signed-up and under contract with the number of BMPs projected in the DEQ Grant Agreement. Further, the Grantee should also include a financial status report of cost-share expenditures that shows obligated and unobligated cost-share funds. DEQ reserves the right to discuss the removal of BMP funds that are not obligated in timely fashion or according to the schedule presented in the contract milestone table. Re-obligation of 319(h) cost-share allocations from one budgeted direct cost category to another or the addition and/or removal of funds from a contract will be dependent on program limitations and will be handled on a case-by-case basis. There are more restrictions for re-obligation of federal funds than there are for state cost-share funds. Unlike state cost-share funds, federal 319(h) funds do expire, and their use after the period of the federal grant award period is prohibited.

3.4 Conflict of Interest Disclosure Requirements

As required by Title 2 of the Code of Federal Regulations, section 200.112, EPA has established a Financial Assistance Conflict of Interest (COI) Policy governing disclosure of actual and potential conflicts of interest by non-Federal entities for federal financial assistance awards received from EPA/DEQ. The COI Policy has a streamlined approach to reduce administrative burden. All non-Federal entities receiving EPA financial assistance must abide by the EPA Conflict of Interest Policy.

The streamlined approach: (1) requires that non-federal entities contact DEQ if the Grantee's COI point of contact is aware of any unfair competitive advantage the non-Federal entity had in competing for any EPA awards; 2) relies on **systems in place** developed by the non-Federal entity to disclose and address contract/subaward COIs for EPA-funded transactions without prescribing the procedures or type of COI inquiry they must conduct.

In addition to the EPA Conflict of Interest Policy, the Code of Virginia State and Local Government Conflict of Interests Act ("COIA"), Va. Code § 2.2-3100 et seq., is applicable to all state and local government officers and employees. Please note that the COIA was amended both in 2016 and 2017. Grantees and their staff are advised to review COIA requirements with their COI point of contact.

The links listed below are for non-Federal entities receiving federal funds from EPA via DEQ.

- EPA's Final Financial Assistance Conflict of Interest Policy[8]
- Code of Virginia State and Local Government Conflict of Interests Act[9]

3.5 Other Restrictions

- **BMPs not listed in grant agreement**: Only the BMPs listed in the executed agreement are eligible for cost-share funding.
- **Geographic constraints**: Cost-share requests from outside the hydrologic unit(s) identified in the grant contract are **not** allowed. The location of the specific BMP must be tagged with a latitude/longitude or location within an IP boundary. There will be no exceptions. It is the **responsibility of the Grantee** to be aware of the location of BMPs in relation to the approved IP and/or project boundary. The DCR Tracking System and VEGIS (see Environmental Information below) can assist with identifying appropriate BMP locations.
    - Section 319(h) project funds are strictly limited to use within the boundaries of EPA-approved watershed-based plans ("TMDL Implementation Plans" - "IPs" or approved alternatives). Section 319(h) project funds cannot pay nor reimburse any costs associated

with a BMP installed outside of the approved IP boundary. If a BMP is found to be located outside the approved IP boundary, the Grantee shall be responsible for reimbursing DEQ the full amount of 319(h) funds expended on the BMP, up to and including technical assistance funds. In these cases, 319(h) should not be used to fund BMPs.

- **Technical assistance funding:** Grantees are not allowed to utilize any BMP cost-share allocations for technical assistance. Grantees involved in the NPS program will receive separate allocations for technical assistance in concert with BMP allocations as specified in their grant agreement.
- **Government owned/managed land**: As of June 2017, DEQ NPS grant funds may not be utilized on state or federally owned or managed lands without prior written consent from DEQ NPS Program Coordinator or the Watershed Programs Manager. Please consult with DEQ for more information.
- **Use of demonstration BMPs**: DEQ currently includes two agricultural BMPs (EM-1T and EM-1AT) and one pet waste BMP (PW-3) in these guidelines, which are to be implemented for demonstration purposes only. Demonstration BMPs are available on a limited basis, and grantees must be pre-authorized by DEQ to implement them. Additional documentation of practice outcomes may be required for DEQ to fully evaluate the effectiveness of these practices. Questions regarding demonstration BMPs may be directed to a DEQ Project Manager or can be sent to NPSgrants@DEQ.Virginia.gov using the subject line "Demonstration BMP Question."

3.6 Differences between Section 319(h) and WQIF Non-Agricultural, Nonpoint Source Pollution Funding

The NPS implementation program utilizes federal EPA funds from Section 319(h) as well as state funds from the Water Quality Improvement Fund (WQIF) (non-agricultural, nonpoint source pollution). There are inherent differences for certain areas between these two funding sources.

- **IP Boundary Limitations**: WQIF funds are not limited to activities within the boundaries of EPA-approved IPs unless that executed grant agreements limits the boundary to specific IPs.
- **NPDES Permit issues**: WQIF does not prohibit the use of funds for BMPs implementing NPDES permits. Nonpoint WQIF funds are used to resolve nonpoint source pollution problems through implementation of cost-effective pollution control actions. As such, WQIF may be used to fund such things as discharging residential septic systems, implementing MS4 requirements, etc.

4. Awarding Cost-Share

Once the Grantee has been awarded funding through a grant agreement with DEQ, the Grantee must establish procedures for recruiting and selecting participants. Selection should be based on locally relevant criteria and information from the Implementation Plan (IP) with the ultimate goal of maximizing the water quality benefits realized through implementation. Grantees must inform selected participants of BMP specifications and qualifying cost-share amounts; however, participants are responsible for soliciting bids for BMP construction according to guidelines set forth by the Grantee before cost-share may be approved and installation initiated.

IN THIS SECTION:

4.1 Cost-share program funding allocations to grantees
4.2 Participant recruitment, prioritization, and selection
4.3 Cost-share rates and combination with other cost-share assistance programs
4.4 Cost-share funding caps, participant caps, and cap variance requests
4.5 Participant notification of application approval
4.6 Contractor bid solicitation and selection for BMPs including information on emergency situations
4.7 Determining qualified/licensed contractors

4.1 Cost-Share Program Funding Allocations to Grantees

Grantees that are managing or involved with NPS implementation projects will be provided an allocation of funds in the grant contract to implement BMPs in specified watersheds. Grantees should manage cost-share funds to implement the most effective and cost-efficient practices available while meeting the contract implementation goals. Grantees will obligate funds to high-priority watersheds in a manner consistent with the executed agreement. Grantees must receive written permission to adjust the eligible BMP list in an executed grant.

4.2 Participant Recruitment

The Virginia NPS implementation program gives Grantees the responsibility to select recipients of BMP funds. The more effectively Grantees recruit and evaluate participant applications, the more successfully they will improve local water quality. Effective participant selection begins with the establishment of locally relevant criteria for conducting recruitment. All of these criteria presume that a water quality problem exists and needs to be corrected. For Districts, this could include primary and secondary considerations utilized by the DCR VACS Program. For Grantees with residential septic programs, this could be indicated through criteria listed in their approved Residential Septic Program Guidelines.

Grantees developing and administering a residential septic program must develop and submit a local "Residential Septic Program Guidelines" document based upon the information provided by DEQ in this manual (Section II). Examples of approved Residential Septic Guidelines include those from Robinson River and Little Dark Run[A], North Fork Holston River (Washington)[B], and Tinker and Glade[C][2]. The

[2] Links to document templates referenced in this document are available in Section IV. The letter in brackets following each reference indicates the letter of the corresponding link in Section IV.

Residential Septic Program Guidelines outline the specific manner in which the Grantee will recruit and select participants and administer its residential septic program. The associated Residential Septic Program Design and Guidelines template[D] can be modified by Grantees for their own use.

Above all else, Grantees should follow prioritization recommendations for participant selection if articulated in the TMDL IP or within their executed agreements. A Grantee should prioritize recruitment and participant selection based on maximizing the water quality benefits as stated in any contractual documents with DEQ.

Recruitment guidelines are important for several reasons. Selection of criteria that address local water quality will maximize water quality benefits realized from this program. Since the Grantee (or its approved sub-awardees) is responsible for approving cost-share, clearly understood priorities will make this approval process much easier and minimize possible misunderstandings. If hydrologic units are prioritized within a grant contract scope of work, the Grantee should recruit participants from hydrologic units in descending priority beginning with the highest priority first. Grantees should strive to prioritize the recruitment of applicants and the implementation of BMPs that will reduce the greatest amount of the identified pollutant of concern (e.g., bacteria, nutrients, sediment) identified in the executed agreement while utilizing the least cost-share funds to address site-specific water quality problems. Grantees may conduct recruitment of program participants on a continuous basis or may establish a cost-share sign-up schedule to best manage their cost-share requests. Whichever method is utilized, selection of participants should be done in an equal and fair manner and with consistency.

4.3 Cost-Share Rates

Practices paid on a percentage basis can be funded solely with NPS funds or in combination with other cost-share assistance programs (piggy-back funding); these can include but are not limited to the Environmental Quality Incentive Program (EQIP)[37], the Emergency Watershed Protection (EWP) Program[38] or other USDA programs, the DCR VACS Program [39], Indoor Plumbing Program[23], and Southeast Rural Community Assistance Program (SERCAP)[24]. Grantees may choose to combine resources to fund mutually high-priority practices up to a maximum cost-share rate of one hundred percent (100%). Unless otherwise explicitly allowed within this manual or the DCR VACS Manual, the cost-share payments will be in accordance with the percentage rate (e.g., 75%) of the cost of implementing a practice as documented in the practice specification. DEQ will not exceed the cost-share limits in the specifications, regardless of the combination of DEQ grant funds. Payments shall be made upon the lesser of the actual cost or practice cap cost. Grantees are encouraged to meet with local conservation workgroups and organizations to discuss funding options, priorities, etc.

- **Combining VACS and 319(h) funds:** It is possible for participants to combine VACS and 319(h) funding to exceed VACS's $100,000 cap per participant per program year; however, the combined funding total cannot exceed the practice specification's cost-share rate. For example, assume a WP-2W costs $200,000; DCR's participant cap limits cost-share to $100,000. The allowable cost-share rate defined in the DCR practice specification is 80% of the practice cost plus an $80 per acre per year buffer payment. If, for this example, two acres of buffer are being established, cost-share for this practice would be $161,600 (80% of $200,000 plus the $1,600 buffer payment). In this example, the participant could receive $61,600 from 319(h) and $100,000 from VACS for a total of $161,600 in cost-share. If the participant were to use DCR's variance process to request cost-share that exceeds the participant cap and receive $125,000 from DCR in addition to 319(h) funding, then the total cost-share the participant receives still could not exceed the practice

specification's 80% cost-share plus buffer payment rate, or $36,600 in 319(h) funding. Note that DCR Data Services staff must be contacted through the appropriate CDC to adjust estimated cost-share payment calculated by the AgBMP Tracking Module.

4.4 Cost-Share Funding Caps, Participant Caps, and Cap Variance Requests

Grantees should not establish alternative BMP cost-share caps or rates. Grantees should follow caps specified in the BMP specifications. This rationale is based on the level of federal 319(h) and state cost-share funds that are available and the increased level of participation that is needed in NPS implementation areas to attain water quality objectives. Grantees are advised to monitor the amount of cost-share that has been/will be approved, especially in cases where an applicant may receive funding from multiple Grantees, so that caps are not exceeded.[3]

Variance requests will only be considered and approved by DEQ for the practice(s) and respective amounts indicated below:

- **Agricultural "T" BMPs**: The agricultural NPS Cost-share Program for FY21 has a $100,000/applicant/year limit for individual practices or any aggregation with other TMDL-eligible practices listed in Table 1. No variance requests are allowed.
- **Agricultural "VACS" BMPs**: Any eligible BMP listed in Table 2 that is considered a VACS practice shall follow the participant cap for FY21 listed in the DCR Virginia Agricultural Cost-share (VACS) BMP Manual[3]. This pertains to practices not specified with a "T." Per the DCR Virginia Agricultural Cost Share (VACS) Manual, Districts may request a variance to exceed the current participant VACS cap per applicant per Program Year for eligible practices. Section 319(h) funding may be used in conjunction with VACS funding for these BMPs, which have received a variance, but the 319(h) funding amount cannot exceed the program year participant cap of $100,000. Note: for DCR practices eligible for variance but 100% funded by 319(h), a variance will not be allowed; DEQ currently does not have a variance process for VACS practices. For these same practices jointly funded by VACS and 319(h), variances will be handled by DCR but will only address the participant cap for VACS funding (see funding example in 4.3).
- **Residential Septic BMPs:** Each practice listed in Table 1 has a funding cap based upon the written specification. Grantee staff can potentially provide more than the cap amount allowable by practice applied to all RB practices if approved by DEQ.
    - Only those applicants eligible for more than 50% cost-share will be considered for a variance to allow increased cost-share above the cap. Variance is only allowed to increase the funding cap in the case where the cost of the BMP is above the standard cost of the practice to assure that the applicant can receive the cost-share percentage for which they are eligible. For example: the average practice cost of an RB-4 is $9,000; the applicant is eligible for 75% cost-share ($6,750). The actual cost of the practice is $12,000. With a variance request, the applicant is eligible for 75% cost-share ($9,000).
    - To submit a variance request, grantees must provide:
        - Identifying information (e.g., DCR Tracking Program Contract Number and BMP

[3] Exception: Grantees administering residential septic programs are given the option to evaluate the fiscal stress of their project area and, if qualified, can request permission from DEQ to utilize the Septic Funding Scenario for fiscally stressed areas that is detailed in the Residential Septic Program Guidelines.

ID);
    - Location of BMP;
    - BMP specification and name;
    - Authorized cost-share percentage;
    - Estimated cost-share amount if variance were approved;
    - Other sources of funding for BMP (source name and amount);
    - An explanation that details why the cost exceeds the average practice cost (cap), which may come from the contractor or VDH-approved system designer;
    - An itemized cost estimate for the entire practice with the total estimated practice listed clearly;
    - Their determination of whether the cost required for the practice seems reasonable (optional: other estimates for the same work that support the determination); and
    - The applicant's income verification.
- All requests should be forwarded by the Grantee to the DEQ central office NPS Program Coordinator at NPSgrants@DEQ.Virginia.gov and cc the assigned NPS Project Manager.
- All variance requests will be reviewed to ensure:
    - The practice is eligible for funding and meets all applicable standards and specification requirements;
    - The accuracy of all calculations, plans, and other documentation as required above;
    - The proposed practice is the lowest cost, technically-feasible solution to the water quality issues;
    - The justification for exceeding the practice cap is legitimate and reasonable.
- The NPS Program Coordinator may request additional information if needed but will review the variance request and respond within 30 business days of the receipt of the request.
    - Note: as of July 2020, the DCR BMP Tracking System can track and calculate the cost-share allowed and address variances.
    - Note: once a variance is approved, DEQ will notify DCR Data Services within two business days to ensure the DCR BMP Tracking System reflects the variance decision.

4.5 Participant Notification

Grantees **must** notify each applicant of the maximum dollar amount approved as well as the cost-share rate for each practice. This will prevent an over-allocation of funds by establishing an approved maximum payment based on the estimated cost. Specific language is already included in the DEQ Nonpoint Source Cost-share Programs Contract[E]. For practices that cannot utilize the BMP contract, the following sample language can be used: "*Your application to install a (Practice Name and Number) under the Virginia Nonpoint Source program has been approved and funded for _____ percent of the total eligible cost, not to exceed _____ dollars.*" Landowners must be informed that the authorized amount of cost-share assistance is the maximum they can receive, and that fund disbursal is not expected before a specified date. Participant notification of available funding must also include a copy of the DEQ practice specifications to ensure participants are aware of all aspects of their commitments.

4.6 Contractor Selection for BMPs

Grantees are expected to spend cost-share funds as efficiently as possible. Grantees must document the decision process to approve cost-share, which includes documenting a participant's rationale for choosing a contractor. Grantees should establish minimal procedures that participants must follow when selecting contractors in order to ensure competition and competitive pricing. When working with participants to document choice of contractor, Grantees should employ existing organizational procurement procedures. For example, existing internal approval process with established average cost lists and partnerships are utilized to ensure appropriate competition and pricing. Grantees must provide DEQ with a copy of or reference (e.g., web link) to the Grantee's established procedures. Grantees that do not have existing contractor selection procedures may establish their own procedures or should employ the processes described below.

- ***Agriculture BMPs***: Bid procedures can be found in DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3].
- ***Residential septic BMPs:*** Many Grantees may decide to bid and hire septic contractors instead of relying on homeowners to procure qualified contractors. There may be many benefits for the Grantees to select contractors instead of requiring this of homeowners. Regardless of whether contractors are selected by the Grantee or the homeowner, a process that meets minimal procurement requirements must be followed. Bids will be obtained from contractors when the total cost of any relevant BMP (RB-2/2P, RB-3/3M, RB-4/4P, RB-5) or collection of BMPs (e.g., a contractor is sought to do a group of pump-outs or repairs) is expected to exceed $5,000.[4] The number of bids obtained must be deemed appropriate by the Grantee. Grantees should detail their recommended Bid Solicitation Process by including this detail in their Residential Septic Program Guidelines. The bid process for residential septic should include the following:
    - **Participant notification**: Grantees will notify a participant that their request is eligible for cost-share assistance and that cost-share funds will be authorized pending the receipt of bids. The scope of the bid should be clarified with the participant by the appropriate technical agency, if applicable, so that equivalent estimates for installation can be acquired. Appropriate technical agency is referenced in Part III of the contract and explained in the Technical Approval section below. An example of a bid solicitation sheet could be provided to the participant for use in obtaining bids. The participant will have 60 days to obtain bids, complete the form, and return it to the Grantee. Grantees may employ a more expedited process when emergency conditions exist (e.g., non-functioning system in need of immediate repair). Grantees should document to the project file the procedures implemented during emergency conditions.
    - **Public announcement**: The Grantee will post in a prominent public place within its office a notice that a participant is accepting bids for the installation of the specified BMP. The appropriate standards and specifications will be attached to the notice as well as the desired starting and completion dates. Distribution of copies of designs or other specific site diagrams to prospective bidders will be the responsibility of the participant. Participants may contact contractors in an attempt to obtain bids.

[4] This number represents the higher end of cost for residential septic practices found in the program design and guidelines.

- **Bid solicitation**: The participant will complete the bid solicitation sheet showing the name, address, telephone numbers, and employer identification number of each construction contractor, the (participant) name, address, site location, type of BMP, and estimated start and completion date. When the recommended number of bids cannot be obtained from sources within a fifty (50) mile radius of the BMP location, the participant will provide documentation for this in the comment section of the bid solicitation form.
- **Receipt of the bid solicitation sheet**: After the Grantee receives the required bid solicitation sheet, the Grantee will notify the participant that the cost-share request has been approved and the specific cost-share amount authorized. The Grantee will retain a file copy of the bid solicitation sheet.
- **Notification to bidder**: The participant will notify the successful bidder who can then execute a construction contract and begin installation. The participant will reserve the right to reject all bids and cancel the cost-share request up until signing a contract. In the event the participant does not award the project to the lowest bidder, the participant will provide suitable justification in writing to the Grantee as to why the low bid was not accepted. This statement will be attached to the bid solicitation sheet and maintained in the Grantee files.
- **Notification to Grantee**: The participant will notify the Grantee and the appropriate technical agency, if applicable, that the bid process is complete and of the anticipated construction start date.
- **Funding confirmation**: Upon review and certification of the bids or required bid sheet, the Grantee will confirm authorization of funding with the participant.

DEQ acknowledges that costs may increase in emergency situations (i.e., the need to immediately address an issue while a contractor is already onsite). Consequently, in emergency situations, as outlined in the Residential Septic Program Guidelines, the aforementioned rules for contractor selection and bid solicitation may have to vary. Participants are expected to make all efforts to select contractors in an open and fair manner while encouraging competition and best price.

4.7 Determining Qualified/Licensed Contractors

Grantees must assure, to the best of their ability, that participants are provided with sufficient information regarding the type of licenses that are required in Virginia to do the required work. This would include any permits or licenses required. The Residential Septic Guidelines more fully describe the certification and licensure required to work on septic systems, so participants can make informed choices during contractor selection. Appropriate licensure for each practice is determined under state code by the Virginia Department of Health (VDH). The Department of Professional and Occupational Regulation[25] (DPOR) issues all licensure for Onsite Sewage System Professionals[26] under state regulations 18 VAC 160-40[27]. More information is provided in subsection VI.k of the Residential Septic Program Guidelines.

5. Practice Requirements

To be approved for construction and fund disbursement, practices must have acceptable operation and maintenance plans and landowner agreements for the specified lifetime of the practice. Utilization of the DEQ Nonpoint Source Cost-share Programs Contract is considered an adequate operation and maintenance plan and landowner agreement for agricultural and residential septic BMPs. All agricultural and residential practice installations must receive technical approval that they were installed properly and according to specifications. Further, agricultural BMPs must be designed and their installation verified by someone with Agricultural Engineering Job Approval Authority. The Grantee is responsible for tracking progress on practice installation to assure adequate progress and efficient allocation of grant funds.

IN THIS SECTION:

5.1 Operation and maintenance requirement for BMPs
5.2 Cost-share BMP Contract for agricultural and residential septic BMPs
5.3 Agricultural engineering job approval authority requirements for agricultural BMPs
5.4 Technical approval requirements for agricultural and residential BMPs
5.5 Completion dates and approved practices under contract and construction
5.6 Special considerations for agricultural BMPs
- **Conservation plan requirements**
- **Biosecurity considerations and response to suspected or confirmed foot and mouth disease outbreak**

5.1 Operation and Maintenance Requirement for BMPs

According to the Programmatic Special Terms and Conditions for 319(h) grant contracts, the Grantee will ensure the continued proper operation and maintenance of all NPS BMPs that have been funded under an agreement with DEQ through the establishment of operation and maintenance plans and agreements with landowners and participants. BMPs shall be operated and maintained for the expected lifespan and in accordance with applicable standards and specifications as defined in DCR's Agricultural BMP Cost-Share Manual (Manual) or DEQ's Nonpoint Source (NPS) Implementation Best Management Practice (BMP) Guidelines (Guidelines), or other DEQ-approved documents. An operation and maintenance plan and the associated landowner agreement for each BMP are due to DEQ for review and approval before any work can be initiated and any funds reimbursed. Operation and maintenance plans and landowner agreements should be submitted to DEQ within 60 days of the start of the grant agreement or within 15 days of completion of the subject BMP designs. Additional landowner agreements or contracts should be submitted on a quarterly basis throughout the grant period.

5.2 Cost-Share BMP Contract for Agricultural and Residential Septic BMPs

Utilization of the DEQ Nonpoint Source Cost-share Programs Contract[E] or DEQ-approved equivalent (Contract) is considered an adequate operation and maintenance plan and landowner agreement for agricultural and residential septic BMPs. The three-part Contract form is for documenting and recording the application and award of NPS BMP funds issued by DEQ through sub-recipient grant agreements. Once signed and executed, the Contract provides documentation that grant funds are allocated to applicants in adherence with DEQ's NPS grant program requirements.

A signed, redacted copy of the three-part contract with all associated documentation is provided to DEQ. The DEQ Nonpoint Source Cost-share Programs Contract[E] is contained in an Excel workbook and includes seven worksheets, or tabs. Details on the use of this contract can be found in Tab 1, "Instructions."

- Instructions – provide full directions on how to utilize Excel document
- Part I – Application for Program
- Part II – Technical Determination and Approval: Agriculture
- Part II – Technical Determination and Approval: Residential Septic
- Part III – Technical Installation and Payment: Agriculture
- Part III – Technical Installation and Payment: Residential Septic
- Form Nonpoint Source Cost-share Program Agreement Transferring Responsibility for Best Management Practice[F]

5.3 Agricultural Engineering Job Approval Authority

All agricultural BMPs installed with grant funds must have an individual with Department of Conservation and Recreation (DCR)-issued Engineering Job Approval Authority (EJAA) to design the practice and verify that the practice was installed according to appropriate specifications. DEQ wants to make grantees aware of this issue and the associated grant requirements, so they can take them into consideration when deciding which agricultural practices to fund. DEQ recognizes the challenges this may pose for some Districts and intends to work with partners to assist Districts in meeting this requirement in the easiest way possible.

DCR will provide engineering services for all practices jointly funded with VACS and 319(h) if there is not a District staff person available who holds DCR EJAA. DCR will provide these services for solely 319(h)-funded projects when possible; however, VACS projects will take priority regarding engineering services at DCR. This means that in some cases, design and oversight for practices completed solely through DEQ 319(h) funding will have to come from another entity if the District does not have staff with EJAA. In order to limit liability, District staff shall follow proper EJAA guidelines including planning, design, and construction signoffs to ensure that practices installed with 319(h) funds are installed in accordance with current DEQ, DCR, and/or NRCS standards and specifications. Districts should have sufficient staff resources that include appropriate EJAA to meet the requirements under the grant.

There are several ways in which a District can demonstrate that they meet the EJAA requirement stated above:

- The District currently has staff that hold(s) the appropriate EJAA(s) recognized or issued by DCR for all the engineering components of all BMPs that will be installed.
- If the District does not have any staff with appropriate DCR EJAA(s), they can do any or all of the following:
    - Partner with neighboring Districts with staff that do hold the appropriate DCR EJAA(s).
    - Consider selecting BMPs to implement which require EJAA that can be jointly funded with both 319(h) and state VACS (e.g., SL-6W stream exclusion). For practices that are jointly funded with 319(h) and VACS, the District would proceed normally to contract, design, and install a practice through the VACS program under the guidance and oversight of DCR.
    - Select BMPs that could be jointly funded by USDA-NRCS EQIP or other federal funding,

allowing 319(h) funds to supplement other funding. In this case, NRCS staff could be available to assist with practice design and oversight.

- Engage a private professional engineer (PE) to provide design and oversight of installation to ensure BMPs meet specifications and eliminate liability to the District.

Table 3 below outlines whether some level of technical knowledge may be required for particular BMPs. If a TMDL "T" practice is not listed below, the practice does not contain components that require EJAA or a PE, and the practice can proceed to completion without the EJAA requirement. Certain BMPs have multiple components, and each component may have multiple levels that require different EJAA. In some cases, staff may not hold all of the EJAA necessary to design all of the components necessary for a practice. Please check with the DCR State Agricultural Engineer (Amanda.Pennington@DCR.Virginia.gov) for any questions on EJAA or agricultural BMP design. All VACS practices funded with 319(h) must follow the procedures outlined in Virginia Agricultural Cost-share (VACS) BMP Manual[3]. All DCR EJAA and completed designs may be subject to annual reviews and engineering spot-checks.

Table 3: Technical (PE or EJAA) Requirements for Agricultural NPS BMPs

NPS BMP Code	BMP Description	NRCS Practice Code	NRCS Practice Name	PE or EJAA Required
SL-6AT	Sm. Acreage Grazing Sys.	362	Diversion	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	376	Roofs and Covers	PE
SL-6AT	Sm. Acreage Grazing Sys.	412	Grass Waterway	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	516	Livestock Pipeline	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	558	Roof Runoff Structures	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	561	Heavy Use Area Protection	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	574	Spring Development	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	575	Trails and Walkways	EJAA
SL-6AT	Sm. Acreage Grazing Sys.	614	Watering Facility	EJAA

5.4 Technical Approval

This section is applicable for all NPS program areas. Any practice installation must meet technical agency standards and specifications of that practice before cost-share payment is made. For all practices utilizing the NPS BMP contract, a staff member of the Grantee must sign Part III certifying the BMP Installation was completed by an "appropriately qualified individual." "Appropriately qualified" is defined in the Cost-Share BMP Contract and for purposes of these guidelines as an individual who is indicated in the associated BMP specification as having the ability and/or certifications necessary to determine a BMP has been installed according to the individual BMP specifications. The statements below have already been included in the Cost-Share BMP Contract. For practices that cannot utilize the BMP contract, the language should be included in the approval documentation to the participant.

- Agricultural Practices: "I certify that all administrative and technical components of the BMP(s) listed above for payment have been completed by an appropriately qualified individual, and it has been determined that each BMP meets all applicable standards and specifications necessary for certification and/or payment. I understand that all BMPs are subject to spot-checks and any other quality control measures as determined by the funding agency or its designees."
- Residential Practices: "I certify that this BMP has been installed according to the applicable BMP(s) standards and specifications. I certify that all construction for the repair or installation of a

conventional onsite septic systems (RB-3 and RB-4/4P) or alternative onsite septic system (RB-5) has been completed in accordance with the permit issued by the local Virginia Department of Health and was inspected by the local Health Department, appropriate Onsite Soil Evaluator, or Professional Engineer who certified the design of the system (see VDH Permitting Process with DEQ NPS Program[I]). I certify that all documentation for the alternative onsite system was provided to the local Virginia Department of Health (VDH), and an operation permit was issued. I certify that for the alternative onsite sewage system (RB-5), the type of installed system was recorded (with the VDH) and is attached to this BMP three-part contract. I certify that for BMPs with the exception of those not requiring a permit (RB-1, RB-2 and RB-3M), a copy of the VDH Condition Assessment Form[H] is attached to this BMP contract. I certify that any 'Assignment of On-Site Sewage Disposal BMPs Cost-share Payment Authorization Form[G]' signed by the participant along with the receiving Technical Service Provider's Name, Address, Tax ID and phone number is attached to this contract. I understand that all BMPs are subject to spot-check procedures and any other quality control measures."

5.5 Completion Dates and Approved Practices under Contract and Construction

NPS projects are administered with an assigned cost-share allocation. Practices should be tracked and maintained in in the DCR BMP Tracking System or an alternative tracking spreadsheet (if the BMP is not available in the Tracking System) until the grant ends, is canceled, or all funds are expended.

The Grantee must set a completion date for approved practices and inform the applicant of that date. BMP completion dates will help Grantees establish deadlines, so that funds can be freed up for other BMPs if projects are not started or progressing. Grantee staff or sub-award staff are required to track BMP progress (percent completed) through completion to help determine the status of projects. Practices not started within nine months of Grantee approval (i.e., signed contract and SWCD Board approval) should be canceled. Likewise, practices not completed by the established deadline or within two years of Grantee approval should be canceled; however, the official action by the Grantee may extend the completion date if justified. All authorized practices must be completed by deadlines established by DEQ based on grant termination dates and the amount of time it takes to complete a BMP; however, no BMP should take longer than two years to complete without approval by the Grantee and DEQ. BMPs may need more than one year to complete and should be maintained in all tracking mechanisms (e.g., DCR BMP Tracking System) under the initial program year until certified as complete. It is the responsibility of each Grantee to monitor progress of approved BMPs and communicate the preceding expectations to all affected participants. It is also the Grantee's responsibility to take into consideration the end date of their DEQ grant award when approving new practices to assure there will be enough time on the grant contract for the work to be completed.

Grantees must expend all grant funds and make all cost-share payments during the timeframe of the current, active grant agreement. Tracking BMP progress will facilitate the appropriate expenditure of all funds by allocating funds away from projects that haven't been started or aren't progressing and ensure that all funded projects will be completed within specified deadlines. Unlike state cost-share funds, federal funds (e.g., 319(h)) do expire, and the use of those funds after the federal award period is **not** allowed. Funds not expended during the Federal EPA award period must be given back to DEQ to be returned to EPA. This is important to remember, as DEQ may provide a "drop dead" date for the full completion and payout of practices.

5.6 Special Considerations for NPS Agricultural Program Areas

- **Conservation plan requirements** apply to agricultural BMPs in all NPS implementation areas. Please reference DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3]. The DEQ NPS cost-share program supports and encourages conservation planning, including resource management planning, on all agricultural land in Virginia. Language in the Code of Virginia (§ 58.1-339.3) requires that a participant have a soil conservation plan approved by the local SWCD to receive an Agricultural BMP Tax Credit. SL-6AT practices funded with DEQ funds are eligible for tax credit.
- **Biosecurity Considerations (including poultry, livestock, and other animal operations) and Response to Suspected or Confirmed Foot and Mouth Disease (FMD) Outbreak** guidelines included in DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3] are applicable in all NPS agricultural program areas. If there are any questionable disease situations on a farm, please call before visiting. Remember these are minimal guidelines, and some operations may have additional requirements.

6. Cost-Share Payment

Cost-share payment is issued by the Grantee after the participant and technical representative have certified installation on Part III of the BMP Contract, and all back-up financial documentation has been provided by the participant to the Grantee. In some circumstances, funds in excess of the amount originally approved may be approved, not to exceed a cap, for unforeseen conditions.

IN THIS SECTION:

6.1 Payment of cost-share to participants
6.2 Additional funds for unforeseen conditions
6.3 Tax information and documentation

6.1 Payment

This section is applicable for all NPS program areas. The amount of the cost-share payment is based upon the estimated cost or total actual cost, whichever is less. When completed practices are scheduled for combined funding from a Grantee and other sources, the Grantee cost-share payment must reflect the balance due (not to exceed the amount approved by the Grantee for the cost-share payment) after payment has been approved or issued by the other sources. Total combined state, federal, and any other funding source cost-share payments must not exceed 100% of the eligible total actual cost.

6.2 Additional Funds

Authorization of additional cost-share must be recorded in the Grantee's meeting minutes, and appropriate changes should be made and noted on the request application and any other data tracking programs. Payments over the total estimated cost (within the practice limits) due to additional incurred expenses that arise after the original Grantee authorization are allowed for constructed practices under the following conditions:

1. Site conditions unforeseen during the design of the practice warrant design or construction changes that create an additional expense.
2. Additional material expenses directly related to the unforeseen site condition altering material quantity or structural specification is required.
3. Grantee action (e.g., from a District Board) may provide cost-share for additional eligible component expenses related to the unforeseen condition. The sum of additional cost-share and the cost-share amount originally approved cannot exceed the practice cost-share limit.
4. When funds are available, official Grantee action (e.g., from District Board) may approve such requests for additional cost-share on an individual basis throughout the program year and only for those practices installed during the same program year.

6.3 Tax Information

Grantees must provide an Internal Revenue Service Form 1099-G or 1099-M to any cost-share program participant who receives $600 or more in cost-share payment(s) during the calendar year per their federal taxpayer identification number or social security number. The 1099 forms go to the individual who received payment for the practice. DEQ is not providing tax advice; the Grantee and the program participant may wish to consult with an independent tax advisor regarding potential tax consequences.

DEQ encourages Grantees to provide information in writing to potential participants that they may be taxed on the cost-share they receive.

- **Agricultural Practices:** Districts should use a 1099-G form.
- **Residential Septic Practices:** Grantees should issue a 1099-M. If the payment for an RB practice is redirected at the participant's request to a technical service provider (TSP), the 1099-M goes to the individual/business receiving the cost-share funds. Participants must sign an Assignment of Onsite Sewage Disposal Practices Cost-share Payment Authorization form[G], which will designate that a payment goes to the TSP. In the case of an authorized TSP, the 1099-M would be sent to the TSP, not to the landowner who signed the assignment form. Districts must also file IRS Form 1099-M and Form 1096 with the Internal Revenue Service in accordance with IRS regulations.

7. BMP Data Collection and Reporting

Grantees are responsible for maintaining appropriate documentation of funded projects. Progress on implementation projects is reported to DEQ quarterly and tracked through DCR's BMP Tracking System. Further, all grant contracts are subject to periodic satisfactory progress review in conjunction with spot-checks to assure the Grantee is managing its work according to the executed grant agreement.

IN THIS SECTION:

7.1 Data reporting
- **Special consideration for SWCDs and practices in DCR's BMP Tracking System**
- **Data reporting through DEQ's BMP Warehouse**

7.2 Documentation to be maintained by Grantee
7.3 Guidance on reasonable volunteer hours and rates
7.4 Environmental Information (or BMP Location Verification)
- **GIS considerations for District users of DCR's BMP Tracking System**
- **Hydrologic unit geography, reporting, unit codes, county and city codes**

7.5 Administrative review and satisfactory progress review

7.1 Data Reporting

Timely data reporting is vital to adequately tracking program effectiveness and making necessary management decisions. Per executed DEQ grant agreements: by the 15th of the month following the end of a calendar quarter, Grantees are to submit a quarterly budget report, reimbursement request, and narrative report according to their grant agreement contract to the assigned DEQ Project manager, DEQ Office of Financial Management (OFM@DEQ.Virginia.gov), and DEQ NPS program (NPSgrants@DEQ.Virginia.gov). All data for completed practices for a specific quarter must be entered into DCR's BMP Tracking System (for Districts) or into DEQ's BMP Warehouse[15] and entered onto the Form D2: TMDL Implementation Project Activity or its equivalent from the executed agreement by the 15th day following the end of a quarter. Any additional reporting requirements for the NPS BMP cost-share will be stated in the contractual agreement with DEQ. The DCR BMP Tracking System will be maintained on a DCR server and will be available for generating reports through LOGI software accessible by the District staffs.

For Soil and Water Conservation Districts (Districts): All BMP data must be entered into the DCR BMP Tracking System by the 15th of the month following the end of a calendar quarter to qualify for reimbursement. Practices with a status of "complete-not paid" will only be eligible for reimbursement if the following information is in DCR's BMP Tracking System: completion date, extent installed, actual cost, cost-share payment, check number, and payment date.

- **Special Consideration for SWCDs and Practices in DCR's BMP Tracking System:** The following special considerations related to BMP tracking apply only to Districts as Grantees or when Districts are using the DCR BMP Tracking System to track practices for a non-District Grantee (e.g., nonprofit, Planning District Commission). Cost-allocation will be associated with an initial Program Year in the DCR BMP Tracking System, and program names will be established and entered into the DCR BMP Tracking System.

  All applications entered into DCR's BMP Tracking System (or an alternative tracking spreadsheet) must be identified as (1) completed, (2) canceled, or (3) carry over (if it meets DEQ NPS program eligibility guidelines) at the end of a fiscal year (June 30). All completed projects are to be paid

and marked as complete in DCR's BMP Tracking System by this date. No approved or requested practices may exist in the following fiscal year. Districts should include grant-funded projects when completing a carryover and year-end reports and submit the reports to their DCR Conservation District Coordinator and their DEQ Project Manager (this can be included in the July 15th quarterly report). Districts should track DEQ NPS funding on the End of Program Year Cash On-Hand Balance form and the Carry Over form provided by DCR to the Conservation District Coordinators and include a copy of this in the appropriate quarterly report with the DEQ NPS grant agreements. *Please note: structural practices under construction or awaiting final vegetative establishment should be maintained in DCR's BMP Tracking System in the program year that the practice received approval.*

Data Reporting in DEQ's BMP Warehouse: If the Grantee plans to complete BMPs that cannot be reported in DCR's BMP Tracking System, the Grantee shall document BMP installation and shall ensure that required operation and maintenance plans and landowner agreements are developed and submitted to DEQ, if applicable. Once those BMPs are completed, Grantees should record the BMP information onto an Excel spreadsheet (BMP Grants Template) downloaded from the DEQ BMP Warehouse[15]. The BMP Grants Template (formerly known as the Attachment D NPS BMP Tracking Form) will then be uploaded by the Grantee into the DEQ BMP Warehouse[15] by the 15th of the month following the end of a calendar quarter. Upon submission, the grantee will receive documentation from the BMP Warehouse that assigns a tracking ID number to each BMP that was submitted. A PDF printout of this submittal should be included in the Grantee's quarterly report package as documentation of data submission.

7.2 Documentation

Grantees will retain all billings and supporting data in their files according to the information listed in individual grant agreement documents including the following, unless notified by DEQ. For any practice cost-shared with DEQ funds on a percentage or flat-rate basis, the Grantee will require bills for all eligible practice components to determine total installation cost. Authorizing personnel will examine supporting data to determine eligible components and proper rates and payments.

- All grantees must enter their BMP data into either the DCR BMP Tracking System or the DEQ BMP Warehouse[15] by the 15th of a month ending a calendar quarter or as described elsewhere in this manual or in the applicable grant agreement.
- Districts must complete their agricultural and septic BMP data input to the DCR BMP Tracking System according to the program schedule published in this manual. This may mean that Grantees contracting with Districts to enter practices into the DCR Tracking Program must provide information to the associated District in time to meet the published schedule.
    - Only agricultural and septic BMP data are entered into the DCR BMP Tracking System by Districts. All other BMP types (e.g., pet waste, urban) data are entered into the BMP Warehouse.
- Conservation and BMP plans and practice design sheets should be kept with individual case files according to Grantee policy.
- Grantees must retain signed copies of Parts I, II, and III of the BMP Contract or equivalent DEQ-approved documentation (e.g., Operation and Maintenance Plans, Landowner agreements, designs, etc.). If the practice is installed, documentation (including signed cost-share contract) should be retained for three (3) years beyond the lifespan of the practice.

- Copies of the contractor selection documentation must be provided to the Grantee and be included as documentation along with the associated BMP Contract.

Any cost-share request that includes at least one subcontractor's scope of work that is anticipated to exceed billable expenses in excess to what is listed in the approved Contractor Selection for BMPs procedures must have documentation that those approved bid procedures were followed before cost-share funds may be expended. One exception is in the case of an emergency situation, which is defined as septic system conditions external to the building, which fully prevent use of the onsite septic system. In the event of an emergency situation, if a Grantee is contacted within 24 hours of discovery and the conditions are documented, the applicant may be eligible for reimbursement payment without following approved bid procedures. Further information is provided in the Residential Septic Program Guidelines.

For any practice cost-shared with DEQ funds on a percentage basis, the Grantee will require bills for all eligible practice components to determine total installation costs. Authorizing personnel will examine supporting data to determine components and proper rates and payments. Participants must sign DEQ NPS Cost-share BMP Contract[E] Parts I and III or equivalent DEQ-approved documentation. Part III includes the participant's certification that the practice is completed according to specifications.

7.3 Guidance on Volunteer Hours

These guidelines provide clarification for including appropriate volunteer hours in calculations to determine BMP cost-share reimbursement amounts. Above all, it is important that the number of hours and monetary value of those hours is appropriate to accomplish the BMP installation. As with all reimbursable BMPs, the participant must provide documentation to support the labor component of the installed practice, meaning quantity of labor hours and value of the labor performed. Grantees or their sub-awardees must ensure that the labor charges submitted are in-line with the total eligible estimated cost that was the original basis for the amount of cost-share approved for BMP installation. Further, Grantees must have comfort with the fairness of the labor cost submitted for calculation of the cost-share reimbursement payment. The most pertinent question to answer is whether the labor cost submitted is appropriate for the labor required to implement the practice based upon local labor rates and whether the quantity of hours submitted is reasonable for the amount of work accomplished.

Grantees may suggest an estimated volunteer match rate based on a known value of similar work in the area. Otherwise, the US Department of Labor, Bureau of Labor Statistics[10] has a website with average hourly wages for various occupations, including agriculture, which may provide a good reference for reasonableness of cost estimates. If no clear estimate is available from these sources, DEQ will accept the national value of volunteer time (including fringe) listed on the Independent Sector[11] website. The current (as of July 2020) average hourly rate is $27.20.

7.4 Environmental Information (or BMP Location Verification)

Grantees are asked to geo-locate with a coordinate pair each cost-share BMP practice. Having a coordinate pair representing the location of the practice allows DEQ or another organization to associate the BMP with geographic features such as monitoring locations, watersheds, and stream segments. A practice coordinate pair should be near the center of the area impacted by the BMP. Accurately siting a BMP and collecting the correct coordinate pair is critical since it may impact eligibility for Section 319(h) funding. As a reminder, 319(h) funds are strictly limited to use within the boundaries of DEQ/EPA-approved NPS implementation plans and, more specifically, any smaller, targeted subwatershed areas of an IP for which a project may focus that may be listed in an executed grant contract. DEQ's Section 319(h)

TMDL implementation cannot pay for nor reimburse the costs for BMPs installed outside of approved boundaries.

Please use the approved DEQ/EPA implementation plan watershed boundaries when determining the scope of an implementation project and for locating a BMP. DEQ provides an online mapping tool (Environmental Data Mapper (EDM))[12], or users can download GIS data sets for their own analyses at the DEQ Open Data Portal[13].

In EDM[12], open the Layer Lists menu by clicking the stack of papers icon in the upper right. Under the dropdown of DEQ Data Layers, expand the TMDL/IP Watershed Layers to show the layers available.

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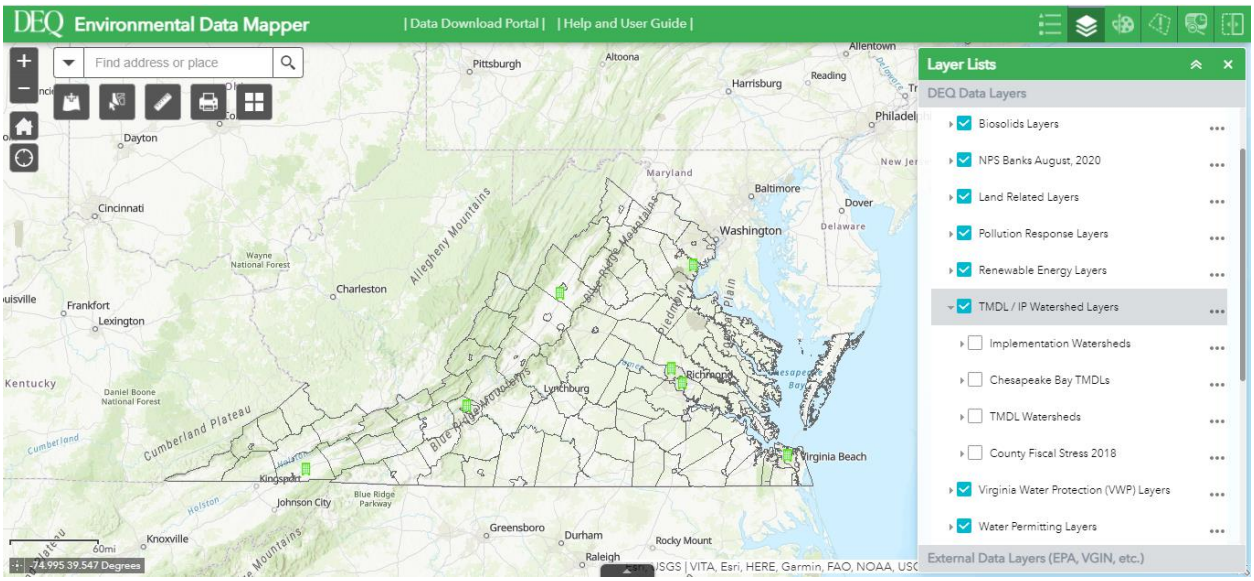

Once the Implementation Watersheds layer is checked on for display, there are various ways you may utilize the application to determine if a BMP is within a specific TMDL IP. For example, a Grantee may use the "Search" window in the upper left-hand corner of the map viewer. Type the address of where a BMP is located and then be sure click anywhere in the vicinity to use pop-up window tool to determine if it within the desired TMDL IP area.

A fiscal stress layer displayed by county is also available. These data come from the Virginia Department of Housing and Community Development and are updated annually. Grantees may utilize this layer to determine participants' eligibility for increased rates of cost-share based on the fiscal stress ranking of the locality in which a practice is located. More information is provided in the Residential Septic Program Guidelines section of this document.

Advanced GIS users may download up-to-date spatial data from the Open Data Portal[13] for use in desktop GIS applications.

Grantees are encouraged to contact DEQ with questions on how to access data. Primary contact may be made with Kristy Woodall (Kristy.Woodall@DEQ.Virginia.gov) or the appropriate regional NPS Coordinator[14]. Users can also check the FAQs and Help[21] page for training videos and other support.

- **GIS Considerations for District users of DCR's BMP Tracking System:** Biannually, DEQ provides DCR with an updated TMDL IP layer, which is uploaded into DCR's BMP Tracking System. If the IP

layer is "on" in the GIS application within the Tracking System, then a District staff person will be able to determine if the BMP location is within a designated TMDL IP area.

- **Hydrologic Unit Geography, Reporting, Unit Codes, County Codes, and City Codes**: For more information about Virginia's hydrologic units and getting lists of county and city codes, please refer to DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3].

7.5 Administrative Review and Satisfactory Progress Review

All grant agreements are subject to periodic satisfactory progress review to determine if the Grantee is managing its work according to the executed agreement. These reviews will be conducted by the assigned DEQ Project Manager and may include other listed project partners. The general schedule of these reviews is dictated by the requirements of the executed agreement but generally includes an initial review within the first 6 month of grant initiation, every 12 months after that point, and within 3-6 months of a grant ending. Progress reviews generally involve reviewing the commitments in the executed agreement, the level of BMP signup and completion compared to the milestone schedule in the executed agreement, the level of grant spending per the completed deliverables, as well as other BMP-specific reviews. This may include field or site visits of certain BMPs for adherence to stated specifications. In conjunction with field or site visits, each assigned Project Manager (and/or associated DCR Conservation District Coordinator) may ask to examine participant files to assure accordance with plans, policies, procedures, and specifications. DEQ or its designee may choose to examine only those participant files that have been selected for field or site visits, or they may choose an overall sampling of no more than 10% of all participant files currently under practice lifespan.

8. BMP Lifespan Management

Following BMP installation and cost-share disbursement, the appropriate authority will perform spot-checks to ensure practice viability as per approved specifications for the lifespan of the practice. The lifespan of a BMP is defined as the time by which a participant/grantee/landowner is responsible for the operation and maintenance for the practice per the approved BMP Specifications. Generally, the lifespan is considered 10 years (if not stated), although there are a few that are as short as 1-5 years. The original participant is responsible for maintaining the practice unless the land is legally transferred with proper documentation transferring responsibility for the BMP to the new owner or leaseholder. Grantees must have procedures in place for addressing practice failures: practices that are no longer functioning per specifications, have been destroyed, or have not been properly transferred to a new landowner.

IN THIS SECTION:

8.1 Spot-check procedures to determine practice viability during its lifespan
8.2 Practice failure identification and procedures to address
8.3 Transfer of responsibility with transfer of property ownership or leasehold

8.1 Spot-Check Procedures

Spot-checks are meant to determine practice viability during lifespan to determine if the practice is being maintained per the practice specification. A technical review of the original BMP is conducted at the time of certification **by the designated personnel** assigned technical responsibility. If technical problems exist, the Grantee and the appropriate technical agency should be notified.

- **Agricultural BMPs:** DEQ has an agreement with DCR that TMDL practices will be considered with VACS practices when determining which BMPs should be inspected. DCR personnel along with associated DEQ Project Managers will conduct spot-checks and will follow the procedures found in DCR's Virginia Agricultural Cost-Share (VACS) BMP Manual[3]. As referenced in the Practice Failure section, DEQ requests that Districts provide a report of all spot-checks that are performed on agricultural practices paid for by DEQ NPS funds. The manner by which this requirement can be fulfilled (e.g., the type of report or information provided) can be negotiated by the District, its DCR CDC, and DEQ's NPS Program Coordinator.
- **Non-Agricultural BMPs:** DEQ is establishing its BMP Inspection and spot-check procedures for non-agricultural practices. Once this process is approved, a copy of the procedures will be provided to all Grantees conducting non-agricultural BMP implementation.

8.2 Practice Failures

A practice failure occurs when upon spot-check or inspection, it is determined that the practice is no longer functioning per the practice specification. Practice failures or damage are **not** eligible for cost-share assistance unless specifically authorized in the practice specification. Practice failure can also be considered when upon spot-check or inspection, it is determined that the property changed ownership or leasehold during the lifespan of the BMP, the property is no longer under control of the participant, and the participant did not complete appropriate paperwork (see Transfer of Responsibility below). Per the DEQ NPS Cost-share BMP Contract[E] signed by the participant (for agricultural or residential septic practices) or a DEQ-approved equivalent document (for all other practices), maintenance of the practice

is the responsibility of the participant for the lifespan of the practice. Practices that are damaged or destroyed before being certified as complete are also the responsibility of the applicant, and only the original authorized cost-shared amount can be used to establish the practice. Grantees are obligated to report annually to DEQ the spot-checks and practice inspections made, the identification of failures or unmaintained practices, and the steps taken to address such failures. **Grantees should establish minimal procedures that participants must follow in the instance of a practice failure, and these procedures should be clearly documented.** Grantees that do not have existing practice failure procedures may establish their own procedures based on DCR's Virginia Agricultural Cost-share (VACS) BMP Manual[3] for agricultural BMPs and the following guidance:

- Participants found, at any time, to have 1) practices not meeting specifications, 2) practices destroyed during the designated lifespan, or 3) practices no longer under the control of the original landowner or an approved new landowner transfer agreement[F], should be contacted by the Grantee and informed of the nature of the identified practice failure, actions necessary to correct, and the repayment requirements if not corrected. This may initially be a verbal notification. Verbal notification should be followed with a written notification (by certified mail) within two weeks. This correspondence should indicate the observed practice failure and allow the individual the opportunity to respond within a specified period of time (e.g., two weeks). It is suggested that a copy of spot-check inspection documentation be provided if available or appropriate.
- Participants may be given a grace period (e.g., maximum of three months) from the date of the written notification for addressing the practice failure. At the end of the grace period, the practice should be re-inspected. The Grantee should notify participants with practices still identified as practice failures in writing that repayment of DEQ NPS cost-share funds is required. Repayment of all or part of the cost-share funds will be based upon a straight-line pro-rata basis if appropriate. This should be calculated on a monthly basis. For example, if the lifespan of the practice was 10 years (120 months), and the practice was determined out of compliance at month 60, then the participant would have to make payment for the equivalent of 60 months, or 50% of the funds paid.
- Participants should have a specified amount of time (e.g., 60 days) from the date of the Grantee's notification of repayment to refund the cost-share funds. If restitution has not been made at the end of this period, the Grantee should notify DEQ and propose appropriate next steps to reclaim the funds (e.g., by seeking assistance from legal counsel).
- When a Grantee has determined that a practice has failed or been destroyed, all practice failure and repayment procedures were followed, and the participant claims that due to some unforeseen hardship, he/she cannot repay the cost-share funds, the Grantee should contact DEQ to discuss how to proceed.

8.3 Transfer of Responsibility

Should the property change ownership or leasehold during the lifespan of the BMP (partially or fully funded by DEQ funds), the original participant will be held responsible for the maintenance of the practice for the duration of the BMP lifespan and failing that, for the return of the cost-share funds. The terms of any sales agreement, lease agreement, or other transaction document for any property with a cost-shared practice present should address this responsibility and be legally effective to transfer it to the new participant. Upon the transfer of ownership or leasehold of the property, the current participant must

present to the Grantee for their approval either: (1) an executed copy of the Nonpoint Source Cost-share Program Agreement Transferring Responsibility for Best Management Practice[F] transferring legal responsibility for maintenance of the practice to the new participant, or (2) a pro-rated return of cost-share funds (see Practice Failures above). When signing and executing the BMP contract (Parts I, II and III) or DEQ-approved equivalent, the participant affirms his/her understandings that he/she will be held financially responsible and liable for the practice even if the property exchanges hands, unless a dually signed Nonpoint Source Cost-share Program Agreement Transferring Responsibility for Best Management Practice is completed.

Section II - Residential Septic Program Guidelines

Background: These Residential Septic Program Guidelines are intended to provide additional information for Grantees who will develop and administer a Residential Septic Program utilizing funds from DEQ. Grantees who receive DEQ funds to provide cost-share assistance for residential onsite sewage systems must develop their own, local Program Design and Guidelines for NPS Cost-share Assistance Program for Residential Onsite Sewage Systems that would be reviewed and approved by DEQ prior to the Grantee executing their program. This section provides information to assist Grantees in developing these specific guidelines. The associated Residential Septic Program Design and Guidelines template[D] can be modified by Grantees for their own use. The local guidelines developed by Grantees should identify the specific local areas where DEQ NPS funds are being utilized and include any changes to reflect their Grantee-specific program where noted. The template referenced above includes example language that can be used as is, augmented, or substituted. All documents must meet minimal standards to be approved. Examples of acceptable Residential Septic Guidelines include those Robinson River and Little Dark Run[A], North Fork Holston River (Washington)[B], and Tinker and Glade[C].

Submission and Approval: A copy of the completed local program guidelines shall be submitted to the NPS Project Manager (and cc'd to NPSgrants@DEQ.Virginia.gov) within 30 days of the grant agreement effective date. Annually, the Grantee should update and resubmit their guidelines to DEQ by August 31 to address changes in the residential septic program for each new fiscal year, which starts July 1.

I. **Overview -** The Program Design and Guidelines for the Virginia NPS Cost-share Assistance Program for Residential Onsite Sewage Systems, administered by the Department of Environmental Quality (DEQ), outlines the application and review process, selection criteria, and administrative procedures for providing cost-share assistance to residential property owners. This program provides cost-share for septic tank pump-outs, connection of failed or failing systems or other non-complying discharges (i.e., straight pipes, gray water) to public sewer, repair and/or replacement of failing onsite sewage systems, and the installation of both conventional and alternative onsite sewage systems for residential homes. The Grantee should state in this section what their program funds, who is eligible, and what types of practices will be covered.

II. **Targeting Participation** – Grantees should describe how they are going to target participation in their program, recruit participants, and promote the program.
    a. **Geographical Area of Program:** Grantees must identify the geographic area their program will cover, so homeowners know if they are eligible. This should identify the following:
        i. Impaired watersheds and/or TMDL implementation plan watersheds
        ii. Localities (cities or counties)
        iii. Neighborhoods (if appropriate)
    b. **Solicitation of Participants:** Grantees should list how and/or from where cost-share applications will be sought. Below are some examples that can be utilized:
        i. Health Department Referrals – The Virginia Department of Health, through the local Health Department, issues Notices of Alleged Violations (NOAV) to property owners whose sewage systems are in violation of health and environmental regulations. Property owners under NOAV may contact the Grantee for an application.
        ii. Referrals from Local Governments, Other Agencies – Homeowners often contact the locality when they have a malfunctioning sewage system. Localities and other local,

state, and federal agencies serving the area will be notified of the Program and will be able to refer clients.

iii. Referrals from private septic contractors – Homeowners already working with a private septic contract to identify and resolve issues with a malfunctioning septic system may learn of cost-share programs available to them.

iv. Educational Activities – News releases, fliers at public locations, mailings to watershed property owners, workshops, public meetings, etc.

c. **Time Frame**: Grantees should indicate the time frame for which they will accept applications for cost-share. If there are any specific deadlines under which the Grantee is working, these should be listed.

d. **Special Targeting Initiatives**: Grantees have the ability to describe any additional targeting or special situations (e.g., straight pipes or low-income households) that the Grantee is conducting as a way to target participation. This description should include at a minimum:

i. Why is this topic is being targeted?

ii. How will targeting of this particular issue be conducted?

iii. For example, if a Grantee wishes to create a residential septic program or initiative that only addresses straight pipes, then this is where information on how this initiative would be administered should be explained.

III. Income Guidelines and Cost-share Rates/Caps – All program participants are eligible to receive a minimum of 50% cost-share for all practices. An increased assistance rate up to 90% will be available based on the income of the property owner(s) for certain practices and the fiscal stress[16] ranking of the implementation area. The percentage of cost-share awarded per applicant will be based on the current **median household income** for the subject county, as published by the Virginia Housing Development Authority[17] (VHDA), US Housing and Urban Development (HUD)[18], or US Census Data[19]. Grantees must identify which source they use and must utilize all components related to that single source (e.g., Grantees may not use the median household income from one source but the income verification procedures from another.)

a. **Income Verification**: Grantees should establish a process or procedure for the manner in which they will verify income for participants eligible to receive more than 50% cost-share. For the purposes of this exercise, the DEQ NPS program will be based upon the median household income unless the participant and Grantee can make a case for using median family income. This is based upon a USHUD recommendation to utilize median household income when involving activities that improve property for housing. According to the US Census[20]: a family consists of two or more people (one of whom is the householder) related by birth, marriage, or adoption residing in the same housing unit. A household consists of all people (over 15 years of age) who occupy a housing unit regardless of relationship. A household may consist of a person living alone or multiple unrelated individuals or families living together. Currently median household or family income values are not based upon household size (i.e., number of persons that make up the family or household). If a grantee wishes to address household size, then they must include a proposal on how this will be addressed and reviewed. At a minimum, it is recommended that this process includes the following:

i. Identification of whether using median family or household income. Identification of the median family/household income for which rates will be based for the location(s) covered under the program. Identification of the source used to determine the median income.

ii. Identification of household size (if chosen and approved to utilize).
iii. Confirms whose incomes will be used to calculate median income (e.g., head of household)
iv. W-9 for applicants
v. A copy of their most recent tax filing (1099, etc.) or statement that they did not earn enough income to file taxes (statement should include the minimum funding amount needed to require one to file taxes).
    - Alternative income verification if 1099 is not available.
    - Two years of tax filing may be helpful and can be requested.
    - If an applicant has had a drastic change in income since the last year's tax filing, then the Grantee shall establish a process or procedure by which to document income. An assessment of the last two years of tax filing plus an income statement (pay stubs) for the preceding three months (or since the last tax filing) may be helpful.

b. **Cost-share Rate Structure**: Once income levels are established, the Grantee must determine the cost-share funds for which the participant is eligible by applying a cost-share rate structure. In order to address the economic differences throughout Virginia, which may impact an individual's ability to participate in the program, DEQ has developed a two-tier cost-rate structure that addresses the fiscal stress a location may experience. The Virginia Department of Housing and Community Development developed a fiscal stress index[16] that provides an indication of a locality's "ability to generate additional local revenues from its current tax base relative to the rest of the commonwealth." There are two cost-share rate structures the Grantee may use, which will be based upon the fiscal stress of the project area: 1) No Fiscal Stress and 2) Fiscal Stress. One rate structure should be selected for an entire project area unless the Grantee has established a process by which it will determine fiscal stress eligibility for each applicant.
    i. Determining Fiscal Stress: Grantees will utilize the most recently available "Report on the Comparative Revenue Capacity, Revenue Effort and Fiscal Stress of Virginia Counties and Cities[22]" to determine fiscal stress classification of their project area. DEQ staff will be available to assist with this. Areas will be considered to have no fiscal stress if they are shown to have below average or low fiscal stress. An area will be considered to have fiscal stress if it is designated as either above average or high fiscal stress. Grantees must receive DEQ approval of their fiscal stress determination for their project area using the fiscal stress classification of the localities in their project area at the time the Grantee applies for funding. If the Grantee has received approval to use the Fiscal Stress rate structure and the locality's fiscal stress classification changes, the Grantee may continue to use the Fiscal Stress rate structure for the remainder of the grant contract.
    ii. The cost-share rate structure will be determined during the Request for Applications process for newly awarded grants. The table representing the selected cost-share rate structure must be included in a Grantee's Residential Program Guidelines. If an implementation area comprises multiple different fiscal stress classifications (e.g., Above Average and Below Average), applicants must provide rationale in their application for the rate structure they will use.
        - **No Fiscal Stress:** Those BMPs determined to be located within localities which have an overall fiscal stress ranking of below average or no fiscal stress will be eligible for a cost-share rate of 55%-80% for all income-verified

thresholds (<40%, 41-60%, 61-80%, 81-100% and 100-120%). The cost-share rate of 50% to 80% is applied to the total eligible cost and has a maximum payment amount (cap) based on the average total practice amount (see Table 4 below).

Table 4: No Fiscal Stress – Cost-share Rate Structure

Percent of Median Income	Percent of Cost-Share
< 40%	80%
41 - 60%	75%
61 - 80%	65%
81 – 100%	60%
100-120%	55%
>121% or No Income Verification	50%

- **Fiscal Stress:** Those BMPs determined to be located within localities which have an overall fiscal stress ranking of above average or high will be eligible for an increase in their cost-share rate of 10% for all income-verified thresholds (<40%, 41-60%, 61-80%, 81-100% and 100-120%). The cost-share rate of 60% to 90% is applied to the total eligible cost and has a maximum payment amount (cap) based on the average total practice amount (see Table 5 below).

Table 5: Fiscal Stress – Cost-share Rate Structure

Percent of Median Income	Percent of Cost-Share
< 40%	90%
41 - 60%	85%
61 - 80%	75%
81 – 100%	70%
100-120%	65%
>121% or No Income Verification	50%

c. **Cost-share Caps**: The cost-share rate of 50% to 90% is applied to the total eligible cost and has a maximum payment amount (cap) based on the average total practice cost (see Table 6 & 7). The Grantee must select and provide one of the following tables of general estimates of cost ranges for practices/systems that are eligible for cost-share:

Table 6: No Fiscal Stress (Localities Ranked Below Average and Low Fiscal Stress) Residential Septic Cost-share Rates/Caps

	Median Income	<40%	40-60%	61-80%	81-100%	100-120%	>120% or no income verification
Practice	**Average Total Practice Cost**	80%	75%	65%	60%	55%	50%
Septic Tank Pump-out (RB-1)	$350	$280	$263	$228	$210	$193	$175
Connection to Sewer (RB-2)	$11,000	$8,800	$8,250	$7,150	$6,600	$6,050	$5,500
Connection to Sewer with Pump (RB-2P)	$18,000	$14,400	$13,500	$11,700	$10,800	$9,900	$9,000
Septic Tank System Repair (RB-3)	$5,000	$4,000	$3,750	$3,250	$3,000	$2,750	$2,500
Inspection and Non-Permitted Repair (RB-3M) (5-year lifespan)	$2,000	$1,600	$1,500	$1,300	$1,200	$1,100	$1,000
Inspection and Non-Permitted Repair (RB-3M) (10-year lifespan)	$4,000	$3,200	$3,000	$2,600	$2,400	$2,200	$2,000
Septic Tank System Installation/Replacement (RB-4)	$8,000	$6,400	$6,000	$5,200	$4,800	$4,400	$4,000
Septic Tank System with Pump (RB-4P)	$12,000	$9,600	$9,000	$7,800	$7,200	$6,600	$6,000
Alternative Onsite Sewage Systems (RB-5)	$24,000	$19,200	$18,000	$15,600	$14,400	$13,200	$12,000

Table 7: Fiscal Stress (Localities Ranked High and Above Average Fiscal Stress) Residential Septic Cost-share Rates/Caps

	Median Income	<40%	40-60%	61-80%	81-100%	100-120%	>120% or no income verification
Practice	**Average Total Practice Cost**	90%	85%	75%	70%	65%	50%
Septic Tank Pump-out (RB-1)	$350	$315	$298	$263	$245	$228	$175
Connection to Sewer (RB-2)	$11,000	$9,900	$9,350	$8,250	$7,700	$7,150	$5,500
Connection to Sewer with Pump (RB-2P)	$18,000	$16,200	$15,300	$13,500	$12,600	$11,700	$9,000
Septic Tank System Repair (RB-3)	$5,000	$4,500	$4,250	$3,750	$3,500	$3,250	$2,500
Inspection and Non-Permitted Repair (RB-3M) (5-year life span)	$2,000	$1,800	$1,700	$1,500	$1,400	$1,300	$1,000
Inspection and Non-Permitted Repair (RB-3M) (10-year lifespan)	$4,000	$3,600	$3,400	$3,000	$2,800	$2,600	$2,000
Septic Tank System Installation/Replacement (RB-4)	$8,000	$7,200	$6,800	$6,000	$5,600	$5,200	$4,000
Septic Tank System with Pump (RB-4P)	$12,000	$10,800	$10,200	$9,000	$8,400	$7,800	$6,000
Alternative Onsite Sewage Systems (RB-5)	$24,000	$21,600	$20,400	$18,000	$16,800	$15,600	$12,000

IV. Information to Inform the Guidelines' Scope of Work

a. **What Program Covers**: Grantees should include a description of what type of work is covered under the program and what is not. The Grantee should also include a statement about other specific program activities for which additional information may be needed (e.g., gray water, alternative septic systems). Suggested language includes:
    i. The [Name] Cost-Share Assistance Program for Residential Onsite Sewage Systems will consider any repair or replacement approved by the Virginia Department of Health (VDH) and not prohibited by any local ordinance to be suited for cost-share assistance under this Program for residential dwellings that are occupied or may be temporarily unoccupied between leases.
    ii. Alternative Onsite Sewage Systems (AOSS): AOSS are often needed for homes that have a non-conforming discharge (straight pipe) or a failing conventional septic system where there is not enough area for setback requirements or suitable soils for replacing with a conventional septic system. There is a suite of different types of systems that are approved by VDH and thus are eligible for cost-share funding. These include but are not limited to: septic tank – soil absorption, aerobic treatment units, low pressure distribution systems, drip distribution systems, sand filters, elevated sand mounds, constructed wetlands, peat filters, vault privies, incinerator toilets, disinfection systems, raw or treated wastewater pump stations, composting toilets, and AOSS aerobic treatment units.
    iii. Gray Water Discharges: Gray water is defined as wastewater from sinks, showers, or laundry. VDH considers this similar to a straight pipe, as it is a non-conforming discharge, and they will require it to be addressed by a septic system. This residential septic grant program allows for gray water to be addressed while addressing other straight pipe or failing or failed septic system issues. Costs can include connecting a gray water discharge from a dwelling that is discharging on the ground or in a wet/dry ditch to the existing or replacement conventional or alternative onsite sewage system or while connecting to public sewer.

b. **Grantee Obligations for Maintenance**: Grantees should include a section that describes obligations on the part of the participant to maintain the practice. Suggested language: "When an applicant agrees to complete the onsite sewage system practice, the applicant is responsible for maintaining the practice for the specified required lifespan (as listed in the associated DEQ BMP specification), unless the ownership/leasehold changes and a Transfer of Responsibility Agreement[F] is executed between the seller (present participant) and buyer (new participant) and approved by the Grantee."

c. **Alternate Funding or Partner Programs**: Grantees are encouraged to identify alternative funding that can supplement DEQ NPS funds to assist participants in correcting septic issues. DEQ 319(h) and other funding sources cannot exceed 100% of the total practice cost.
    i. If alternative funds are identified as part of the larger project, the Grantee should include a process by which the alternative funds will be selected and utilized.

d. **Addressing Indoor Plumbing Issues**: Grantees should include a section that describes how the project will address indoor plumbing and provide information on other programs that may provide funds for these needs. Older homes often have antiquated plumbing that creates challenges in dealing with non-complying discharges (i.e., straight pipes, gray water). Costs of upgrading or modernizing indoor plumbing are not eligible for cost-share. Because of these factors, local programs are encouraged to work with partner organizations, which

may have complementary programs that may address indoor plumbing issues.

i. For example, the Virginia Department of Housing and Community Development[23] and the Southeast Rural Community Assistance Project[24] both have indoor plumbing and rehabilitation programs that offer grants/loans to homeowners to modernize and/or replace plumbing to address non-complying discharges and failing onsite sewage disposal systems. Communication has been provided to both about the Virginia Residential Cost-Share Assistance Program for Onsite Sewage Systems, and they are interested in working with low-income homeowners who need assistance.

e. **Addressing Multiple Systems**: DEQ originally developed the Residential Septic Guidelines to address the typical septic system configuration for a single-family residence, which includes a single septic tank, distribution box and drainfield. DEQ recognizes that historically not all septic systems were designed and installed the same. After consultation with VDH, DEQ has developed guidelines for BMP or cost-share eligibility for unique system configurations that Grantees may encounter. This list is not exhaustive. Grantees should consult DEQ on a case-by-case basis for eligibility for any non-typical situations not addressed below:

i. One house with two septic tanks and a single drainfield: Cost-share will be allowed for pumping out of both tanks, but if cost exceeds the practice cap this will be based on a variance. This would be credited as one (1) RB-1 septic pump-out, but the applicant would be able receive cost-share for the cost of the two pump-outs combined. For example: if each pump-out costs $300, and the homeowner would be eligible for 75% cost-share, then a variance request would be granted for ($300x2x75%) $450. Credit for two pump-outs should not be given.

i. If a system requires additional work beyond a pump-out (e.g., RB-3/3M, -4/4P, etc.), then the cost of the extra pump-out would be included in the total cost of the system, and a variance would only be required if the total cost of the action (repair/replacement) exceeds the average practice cost.

ii. One house with one septic tank (or two) and two separate drainfields: Cost-share will be allowed to address the repairs/replacements required by VDH. If this includes repairing or replacing both drainfields, this would be eligible for cost-share. This would be credited as one (1) septic system (e.g., one RB-3, one RB-4), but the applicant would be able receive cost-share for the cost of all eligible actions. A variance would only be needed if the cost of the repair or replacement exceeds the average practice cost.

iii. Two houses on the same property with completely separate septic systems (not connected): These systems would have two separate operation permits from VDH and would be considered two (2) separate practices. Each would be eligible for its own separate cost-share for eligible work (e.g., each gets a pump-out, each gets a repair). It is suggested that these practices are handled as separate BMPs for recording purposes.

iv. Two houses on the same property, each with separate septic tanks but one shared drainfield: The two tanks are collecting solids before the effluent moves to the drainfield. For VDH purposes, this would have one operation permit and one owner/responsible party. However, this should be counted as two (2) systems if just a pump-out is required (no variance needed). If this system requires additional work beyond a pump-out (e.g., RB-3/3M, -4/4P), then only the responsible owner/party would be eligible; cost of the extra pump-out would be included in the total cost of

the system, and a variance would only be required if the total cost of the action (repair/replacement) exceeds the average practice cost. In the latter case for tracking purposes, this could be counted as one RB-1 and one other (e.g., RB-3/3M, -4), so that two systems are actually credited against the IP.

v. Two houses on separate properties, each with separate septic tanks but with one shared drainfield: For VDH purposes, if the system has one drainfield, one operation permit would be issued, and there would be one owner/responsible party. This would be handled the same as if the houses were on the same property (see "iv." above).

vi. House is connected to public sewer, but the system includes a septic tank (or other components for pre-treatment): Occasionally, historic connections to public sewer may have kept a septic tank functioning to remove solids before the effluent flowed into the central sewer. Other systems may have had a grinder pump to process some of the solid wastes before joining the effluent flowing out of the system. Generally, these situations are not common because the system is already connected to public sewer. This system is already considered to be connected to public sewer so the property would not be eligible for cost-share for a pump-out or any repairs or replacements.

f. **Cost-share Eligibility for Applicants that are Estates or Trusts**: Properties owned or administered by an estate or trust will be eligible for 50% cost-share. Cost-share beyond 50% requires income verification. Currently, there is not a DEQ-accepted or approved uniform process for income verification for estates or trusts, as this can be difficult due to the potential for multiple beneficiaries and the possible lack of documentation generally required for income verification. DEQ is in the process of developing income verification processes for estates or trusts; until that is available, only 50% cost-share funding is authorized.

g. **Tree Removal and Land Clearing**: Under certain circumstances, RB-2/2P, RB-3, RB-4/4P or RB-5 may not be possible without tree removal and/or land clearing due to restrictions at the site. Homeowners meeting eligibility requirements as defined below may receive cost-share funding to do this activity. Grantees can approve the inclusion of tree removal as eligible for cost-share as long as a process for reviewing requests for tree removal are developed by the Grantee that meet the minimal eligibility and review requirements set here.

i. To qualify, the site must be reviewed and evaluated by an appropriately licensed professional who determines that the only viable site on the property for the proposed septic work would require the removal of trees or clearing of land. Tree removal and land clearing on its own (separate from and not related to site preparation to do authorized and eligible septic work) is not allowed.

ii. A DEQ-granted variance is no longer required if the total costs (BMP and tree removal) are within the cost-share cap; however, the Grantee should collect and file the required documents (see "iv" below). A grantee would need to request a variance from DEQ (in advance) only if the approved activity exceeds the practice cap. For example: The cost of a septic BMP is $5,000, and the landowner is eligible for 80% cost-share, or $4k. The practice cap is $4,500. Then, it was determined that several trees needed to be removed to install the practice. The cost estimate then goes up to $8,000. The landowner is still eligible for 80% cost-share (which is now $6,400), but it exceeds the practice cap. So, the grantee would request a variance to pay for the extra costs ($1,900) due to the removal of trees. See Section 4.4 on how to submit a variance request for residential septic BMPs.

iii. The proposed activity must adhere to all local, state, and federal laws or ordinances applicable at the time of design and installation. This includes adhering to the Chesapeake Bay Preservation Act, which may limit or prohibit land clearing in a Resource Protection Area (RPA).

iv. Adequate Justification provided to Grantee for review and approval

i. A written statement explaining why the wooded area was chosen for BMP installation. This minimally includes a discussion of the alternate locations that were evaluated but eliminated from consideration (and why) and an assessment of the smallest number of trees that would need to be removed to accommodate a functional septic system. This statement should be developed and signed by the onsite soil evaluator, VDH representative, or licensed professional.

ii. Site map showing locations of existing septic system, proposed septic system, trees to be removed, square footage of land to be cleared, and any alternative locations.

iii. Cost estimate, which includes separate costs for tree removal.

h. **Key Restrictions**: Grantees should include a statement of the situation of when DEQ NPS funds are not allowable for septic practices. The following situations should be noted along with any local restrictions.

i. Permitted Discharging Systems: Any onsite sewage septic systems that discharge to state waters and require a discharge permit (e.g., NPDES) are ineligible for cost-share**.**

ii. Gray Water: In the absence of a failing or failed septic system when gray water is the only issue to address, there are restrictions on when repairs/replacements to address only gray water will be allowed. If the proposed overall project is intended to only address bacteria contamination, then gray water discharges may only be addressed when addressing failing or failed septic systems. If the purpose of the overarching project is to address nutrients, then a repair or replacement that addresses only gray water would be allowed.

iii. Non-residential structures**:** For the purposes of this program, only non-complying discharges from or septic systems for structures whose primary use is as a residence, house, home, or single-family dwelling unit are eligible. Eligibility is not dependent on ownership, historical use, or permitted use (VDH or otherwise) of the structure served by a septic system or the source of the non-complying discharges. The NPS Program cannot extend eligibility to non-residential properties due to EPA's requirement that funds support BMP implementation for EPA-approved implementation plans (IPs), which do not give credit toward IP goals and milestones for septic BMPs installed on non-residential properties. As such, DEQ will not consider requests for BMPs serving septic systems at non-residential structures.

V. Cost-Share Application and Review – There are many methods by which Grantees can solicit and/or allow for the sign-up for and approval of cost-share funds. The Grantee should have a process established that addresses the key components of application, review, and approval. This process should include some of the following minimum components:

a. **Application Guidelines:**

i. Continuous Sign-Up – Applications will be accepted on a continual basis.

ii. Income Eligibility – For an increased cost-share rate above 50%, applicants shall demonstrate income qualification based on local program guidance. This may include a requirement that the applicant provide a copy of the most recent state or federal tax return. Applicants should also provide a completed W-9 form.

iii. Place and Time of Application – Guidelines should note that applications will be available at the Grantee office and include the office address and operating hours.

iv. Cost-share Eligibility – expenses incurred or work completed prior to submission of an application are not eligible for cost-share, unless they meet a qualifying event under "Emergency Situations."

b. **Review Guidelines:**

i. Staff Review – The Grantee staff will review each application for completeness. Staff will verify income eligibility. Staff will verify that the onsite sewage system is in need of deficiency correction through a repair permit or installation permit issued by the Department of Health or consultation with the local Health Department. A site visit should be made by Grantee staff.

ii. Selection Committee – The Grantee will designate a committee to review and approve completed applications. The Committee will recommend the applicants to receive cost-share assistance to the Grantee for approval. The Committee must consider the following in determining cost-share funding priorities when the number of applicants and requested cost-share exceed available funding:

i. Quantity of residential septic BMPs identified in the TMDL implementation plan;

ii. Cost of correcting onsite deficiency;

iii. Correction of onsite waste disposal deficiency, impact on water quality; and,

iv. Method of correcting onsite deficiency – probability of successfully functioning system including ease of maintenance.

iii. The committee may also choose to consider the following as optional criteria for determining cost-share funding priorities:

i. Repair permit issued by Department of Health

ii. Proximity of deficiency to impaired stream

iii. Local geological features onsite (e.g., karst, rock outcroppings)

VI. Administrative Procedures

a. **Onsite Sewage System Repair/Replacement Specifications:** The Grantee should include a description or reference the specifications for which their program covers and include language that funds will not be provided for any practice that does not meet these specifications.

b. **Permits, Inspections, and Sign-Off**: The Grantee should include a description of what is needed, who must do it, what inspections will be completed (and by whom) and what is needed to sign off on and certify a practice (see VDH Permitting Process with DEQ NPS Program[I]). Suggested language can include: "The participant (homeowner or their agent) shall obtain a VDH permit for the repair of an existing onsite sewage system or the installation of an onsite sewage system or an alternative sewage system. Also, the owner or agent is responsible for obtaining any other permit as required for construction of the sewage system. The property owner shall obtain and comply with any engineered designs as required in the VDH permit. The Department of Health will issue the onsite sewage system repair/replacement permit. A final inspection of the repair or replacement shall be conducted

by the local Health Department. The DEQ Nonpoint Source Cost-Share Programs Contract[E] form (Parts I and III) must be signed and dated by the property owner(s) and a Grantee representative. A copy of the repair or replacement permit shall be retained in the participant file."

i. VDH Permit Requirements: VDH does not require a permit for work on septic systems or their components provided the correction needed meets the definition of "maintenance." VDH does require a permit for the new construction of septic systems and for repair or replacement of systems when a system meets the definition of a "failure of a sewage disposal system." VDH also requires a permit for replacement of tanks, drainfield piping, and subsurface drainfields, as these actions are explicitly excluded from the definition of "maintenance."

ii. VDH Permit Fees: As of July 1, 2019, VDH charges two fees: a $425 fee for a repair permit without supporting work from a private sector onsite soil evaluator or professional engineer; or a $225 fee for a repair permit with supporting work from the private sector. "Supporting work" refers to a site and soil evaluation and design for a new or repaired onsite sewage system, documentation of which would accompany a permit application. Applicants with incomes below 200% of the Federal Poverty Level are eligible for a fee waiver from VDH. Permit fees are allowed to be included in the total cost for calculating cost-share purposes. Variances of the exceedance of the practice cap are allowed for the inclusion of permit fees as long as it is documented that the participant has applied for any eligible permit fee waivers from VDH.

iii. Informing Applicants of VDH Fee Waivers: Grantees should ensure that all septic BMP program applicants are informed of the circumstances where VDH will waive its normal septic system permit fees. These circumstances are (1) when there is inadequate private sector capacity in a local area to perform the technical services needed, and (2) when the septic system homeowner income is < 200% the Federal Poverty Level (FPL). For applicants who wish to seek a fee waiver, grantees should provide advice on how applicants can seek a waiver from VDH. This assistance could include a handout with VDH/local health department points of contact, a summary of documentation requirements for waiver applications, and/or an offer to directly assist homeowners in applying for a waiver.

c. **Variance Requests**: The Grantee should include a description of what a variance is, who is eligible, what types of variances are allowed, when they are eligible, and the process by which a variance is requested and granted. Suggested language could include: "A participant may be eligible to receive a variance if the cost of the practice exceeds the average practice cost (cap), according to the rules laid out in Section I (subsection 4.4 Cost-Share Funding Caps and Cap Variance Requests) of the DEQ NPS BMP Guidelines. The purpose of a variance is to assure that a participant received the percent of cost-share for which they were approved. Example language and the requirements for a variance request can be found in the above-referenced subsection 4.4**.**

d. **Assignment of Residential Cost-Share Funds:** The Grantee can make the cost-share payment for certain residential septic practices (RB-2/2P, RB-3/3M, RB-4/4P, and RB-5) to a third-party contractor/installer upon request by the participant. An Assignment of Residential Septic Practice Cost-Share Authorization[G] form must be completed and provided to the Grantee. In order for this payment to be made, the contractor must provide a completed Form W-9,

Request for Taxpayer Tax Identification and Certification to the (**Grantee**). If over $600, the Grantee must send a 1099-M to the recipient of grant funds, in this case the contractor.

e. **Tax Advice:** Neither the Grantee nor DEQ provide tax advice; the program participant may wish to consult with an independent tax advisor regarding potential tax consequences.

f. **Inspections**: Several BMPs allow for the inspection of different components of the septic system to determine if there are issues needing repair or if the system has failed. Certain levels of inspections are required for certain practices (RB-1 and RB-3/3M), and as such, an VDH Condition Assessment Form[H] is required. Other practices may also involve inspections. The Grantee is encouraged to outline the process by which inspections will be allowed and what is expected from those actions.

g. **Process to Address Change in Need:** Occasionally a participant is approved for a practice, and it is determined that the septic system needs more extensive work than is authorized under the originally approved septic practice. As a result, there will be a need for a change in practice code (e.g., RB-1 turns into an RB-3M, or RB-3 turns into an RB-4/4P or RB-5). The Grantee has developed processes to address and approve changes in practice codes:

    i. The participant will provide the Grantee with documentation supporting the need for a practice code change. This documentation should be completed by the septic professional and must be documented using the VDH Condition Assessment Form[H] or other report containing similar information from the septic professional.

    ii. The Grantee shall review the documentation supporting need for practice code change, determine the new practice code, and document it accordingly in the participant file.

    iii. The Grantee shall notify the participant that they are authorized to proceed with the installation/construction of components associated with the new practice code and inform them of the approved associated cost-share funds.

    iv. The Grantee shall follow their established procedures for approval of cost-share and BMPs, except that the decision will instead be to either amend the practice code or change the approved cost-share amount. For example, if a Grantee has a selection committee, the program participant's situation, associated documentation, request review, and approval of the change in practice code would be presented to that committee.

h. **Process to Address Change in Need After BMP is Complete and in Lifespan:** A participant is only eligible for funding for a septic practice if they are not currently under the contract lifespan of another septic BMP for the same septic system. For example, if the participant has already received cost-share for an RB-4 replacement practice that is still under lifespan, and the system needs a pump-out or repair (RB-1 or RB-3/3M), the participant would not be eligible for additional funds. In cases where a participant completes a DEQ NPS-funded practice (e.g., repair or replacement) and during the lifespan of the practice contract, it is determined that there still is a problem and either repair or replacement work (RB-3/3M, RB-4/4P, or RB-5) is needed, the Grantee may authorize, through DEQ approval, cost-share for the new practice if all of the following conditions apply or occur:

    i. The Grantee has an existing DEQ grant and funds available in the location of the existing BMP.

    ii. The following conditions have been met:

        i. There is no evidence that the original practice has been improperly maintained. Examples of improper maintenance may include parking vehicles on the drainfield or putting paint, oils, wipes, or other non-recommended

items into the system. Funds for the new practice will not be provided if there is evidence of failure due to improper maintenance.

ii. The existing BMP contract needs to be canceled and a pro-rated amount of cost-share for the existing BMP based upon the remaining lifespan would be returned by the participant to the grantee. A new contract would then be issued for the new BMP in the amount of cost-share that the participant is eligible for based upon new income review and the cost of the new BMP.

- Example: Participant currently has an RB-3, is in year 5 of a 10-year lifespan, and had received $3,000 in cost-share. The participant needs a new RB-5 at a total of $24,000 and is eligible for 50% cost-share.
    i. The RB-3 contract would be canceled, and the participant would return $1,500 (5/10=50% x $3,000=$1,500) to the Grantee.
    ii. The participant would sign a new 10-year contract for the RB-5 and receive $12,000 ($24,000 x 50%).
- Example#2: A pump-out was completed, and in year 2 of the 5-year lifespan, the practice had a failure that necessitates a replacement (RB-4).
    i. The RB-1 contract would be canceled, and the participant would return $90 (3/5=60% x $150=$90) to the Grantee.
    ii. A new 10-year contract for an RB-4 would be issued at the new cost and eligible cost-share rate based upon participant's income

iii. The participant signs a new BMP contract agreeing to maintain the practice for the full lifespan of the new practice.

iv. Grantee should provide documentation to DEQ that a BMP was canceled and a new BMP was issued, so DEQ can be assured there is not double counting of BMPs.

i. **Process to Approve Emergency Situations:** For purposes of these procedures, an emergency situation is defined as septic system conditions external to the home which fully prevent use of the onsite septic system. This includes sewage backing up into the residence and/or sewage backing up and/or ponding on the surface of the ground. In the event that an emergency situation necessitates an emergency pump-out or emergency repair, the Grantee must be contacted within the first 24 hours after discovery of the situation for the applicant to be eligible for reimbursement for any expenses incurred to bring the system back into functional status. The applicant must fully document the existing condition which necessitates emergency procedures. These procedures are not intended to be used for major repairs, only for those repairs to return functionality.

i. The Grantee should develop a process to approve emergency situations, which should include, at a minimum:

i. The applicant must complete and submit an application and documentation of the emergency situation to the Grantee prior to proceeding with the repair/replacement.

ii. Documentation <u>shall</u> include both a written, signed statement by the applicant that describes the situation and photograph(s) of the presenting

condition, as well as a VDH Condition Assessment Form[H] completed by septic contractor that completed the work.

iii. The Grantee shall review the application and supporting documentation, refer the applicant to VDH, and determine the appropriate practice. The Grantee shall advise the applicant that they will need to inform the Grantee of VDH's determination regarding appropriate action needed to address the emergency.

iv. The Grantee shall obtain a copy of the VDH permit, if needed/if applicable and verify the needed practice.

v. The Grantee shall notify the applicant that they are authorized to proceed with the repair/replacement and inform them of the approved associated cost-share funds.

vi. The applicant must sign a form provided by the Grantee on official letterhead acknowledging: the aforementioned documentation has been completed and reviewed by the District, that funding is available although pending later Board approval, and that they may proceed at this time without sacrificing their eligibility. However, funding is not guaranteed until the Board takes action; thus, applicants proceed at their own risk.

vii. The Grantee shall present to the selection committee the applicant's situation and associated documentation and request review and approval of the practice.

j. **Process to Assure Operation and Maintenance and Address Practice Failures -** All residential septic practices contain a requirement to maintain practices per the DEQ BMP specification for the designated lifespan. The Grantee, utilizing the NPS BMP Contract, must assure that all participants agree to certain terms and conditions related to this requirement. A practice failure occurs when upon inspection it is determined that the practice is no longer functioning as intended by or per the practice specification. More information on O&M and Practice Failures may be found in the corresponding sections of the BMP Manual.

   i. The Grantee should develop a process or procedure by which practice failures are identified, addressed, tracked, and reported.

   ii. The process should minimally include what is listed in Practice Failures.

k. **Process for Assuring Appropriate Licensure:** Grantees must assure to the best of their ability that participants are provided with sufficient information regarding the type of licenses that are required in Virginia to work on septic systems, so participants can make informed choices during contractor selection. Appropriate licensure for each practice is determined under state code by VDH. The Department of Professional and Occupational Regulation[25] (DPOR) issues all licensure for Onsite Sewage System Professionals[26] under state regulations 18 VAC 160-40[27]: Onsite Sewage System Professionals Licensing Regulations.

   i. Each Grantee will include a section in their guidelines that describes their process by which they will assure participants are provided access to appropriate information.

      i. If Grantees provide participants with a list of local contractors, DEQ recommends including a disclaimer regarding endorsements and recommendations, homeowner responsibility, and finding a contractor with an appropriate licensure.

         - Example: "The Piedmont Soil and Water Conservation District has partnered with the Amelia, Nottoway, and Prince Edward County Health Departments to compile this list. None of the organizations

endorses or recommends any person, company, or entity listed. It is your responsibility to verify that the contractor has the appropriate licensure to do the work. Ask the contractor, or visit http://www.dpor.virginia.gov/LicenseLookup/"

ii. Required licensures and documentation for practices (also see Summary Table of License Requirements[41]

i. To pump (RB-1):
   - Onsite Sewage System Operator license (individual must possess a license or must work for a licensed OSS Operator who is liable for the work performed) + sewage handling permit from VDH

ii. To connect to public sewer (RB-2):
   - Plumber's license + permit or approved application to connect to public sewer from the utility

iii. To repair (RB-3/3M or RB-4/4P):
   - Conventional Onsite Sewage System Installer license + SDS Contractor's license (company that the individual owns or works for).
   - Non-permitted repairs do not require the SDS Contractor's license.

iv. To install (RB-4/4P and RB-5):
   - Conventional Onsite Sewage System Installer license (individual) + SDS Contractor's license (company that the individual owns or works for)
   - Alternative Onsite Sewage System Installer (alternative license classification) + SDS Contractor's license (company that the individual owns or works for)

v. Final Inspection: Onsite Soil Evaluator license

iii. Appropriate Methods to locate Licensed Service Providers

i. VDH Map Tool: Currently VDH provides a map search tool[28] to identify septic system service providers throughout Virginia.

ii. DPOR Lookup Service: DPOR provides a "License Lookup[29]" tool to find service providers in a specific area. Please choose "WWWOOSSP" for the Board; and then select a license type.

iii. DPOR Public Records Request: It is possible to request a list of all qualified Onsite Sewage System Professional by contacting the Information Management Section of Public Records[30] (email PublicRecords@DPOR.Virginia.gov or phone 804-367-8583). It will be possible to request an entire list of licensed professionals for a specific geographic area (e.g., county or counties).

VII. Glossary of Terms:

a. 12VAC5-610-350[34]**. Failure of a Sewage Disposal System, Virginia Department of Health (VDH), Chapter 610 Sewage Handling and disposal Regulations**

i. For the purpose of requiring correction of a malfunctioning sewage disposal system the presence of raw or partially treated sewage on the ground's surface or in adjacent ditches or waterways or exposure to insects, animals, or humans is prima facie evidence of such system failure and is deemed a violation of these regulations. Pollution of the groundwater or backup of sewage into plumbing fixtures may also indicate system failure.

b. 32.1VAC6-1-163 (§32.1-163)[35]. **Definitions from Virginia Department of Health Article 1 Sewage Disposal**

   i. "Alternative Discharging Sewage System" means any device or system which results in a point source discharge of treated sewage for which the Board may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single-family dwelling with flows less than or equal to 1,000 gallons per day.

   ii. "Alternative onsite sewage system" or "alternative onsite system" means a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

   iii. "Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

   iv. "Maintenance" or "maintain" means, unless otherwise provided in local ordinance, (i) performing adjustments to equipment and controls or (ii) in-kind replacement of normal wear and tear parts that do not require a construction permit for adjustment or replacement of the component such as light bulbs, fuses, filters, pumps, motors, sewer lines, conveyance lines, distribution boxes, header lines, or other like components. "Maintenance" includes pumping the tanks or cleaning the building sewer on a periodic basis. Notwithstanding any local ordinance, "maintenance" does not include replacement of tanks, drainfield piping, subsurface drainfields, or work requiring a construction permit and installer. Unless otherwise prohibited by local ordinance, a conventional onsite sewage system installer or an alternative onsite sewage system installer may perform maintenance work limited to in-kind replacement of light bulbs, fuses, filters, pumps, sewer lines, conveyance lines, distribution boxes, and header lines.

   v. "Sewage" refers to water-carried or non-water-carried human excrement, kitchen, laundry, shower, bath, or lavatory wastes separately or together with such underground, surface stormwater, or liquid waste as may be present from a residence

c. **12VAC5-613[36]: Regulations for Alternative Onsite Sewage Systems (VDH)**

   i. "Small AOSS" means an AOSS that serves no more than three attached or detached single-family residences with a combined average flow of less than or equal to 1,000 GPD or a structure with an average daily sewage flow of less than or equal to 1,000 GPD.

   ii. "Large AOSS" means an AOSS that serves more than three attached or detached single-family residences with a combined average daily sewage flow greater than 1,000 GPD or a structure with an average daily sewage flow in excess of 1,000 GPD.

d. **18VAC160-40-10[31]** Definitions from Department of Professional and Occupational Regulation (DPOR) Chapter 40 Onsite Sewage System Professional Licensing Regulations

   i. "Alternative onsite sewage system installer" means an individual licensed by the board to construct, install, and repair conventional and alternative onsite sewage systems.

   ii. "Alternative onsite sewage system operator" means an individual licensed by the board to operate and maintain conventional and alternative onsite sewage systems.

   iii. "Alternative onsite soil evaluator" means an individual licensed by the board to evaluate soils and soil properties in relationship to the effect of these properties on the use and management of these soils as the locations for conventional and alternative onsite sewage systems, to certify in accordance with applicable state regulations and local ordinances that sites are suitable for conventional and alternative onsite sewage systems, and to design conventional and alternative onsite sewage systems suitable for the soils.

   iv. "Conventional onsite sewage system installer" means an individual licensed to construct, install, and repair conventional onsite sewage systems.

v. "Conventional onsite sewage system operator" means an individual licensed by the board to operate and maintain a conventional onsite sewage system.

vi. "Conventional onsite soil evaluator" means an individual licensed by the board to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils as the locations for conventional and alternative onsite sewage systems, to certify in accordance with applicable state regulations and local ordinances that sites are suitable for conventional and alternative onsite sewage systems, and to design conventional onsite sewage systems suitable for the soils.

vii. "Maintenance" or "maintain [same definition as 32.1VAC6-1-163 (§32.1-163)[35] listed above]

viii. "Operate" means any act of an individual that may impact the finished water quality at a waterworks, the plant effluent at a wastewater works, or the effluent at an onsite sewage system.

ix. "Operator" means any individual employed or appointed by any owner and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks, wastewater works operations, or to operate onsite sewage systems. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

e. **18VAC50-22-30. Definitions of Specialty Services[32]**

i. "Sewage disposal systems contracting" (Abbr: SDS) means the service that provides for the installation, repair, improvement, or removal of septic tanks, septic systems, and other onsite sewage disposal systems annexed to real property.

ii. Requirements for Qualified Individuals [33]
Businesses applying for SDS specialty Designation must employ a qualified individual who has a valid Onsite Sewage Systems Professionals Installers license from the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Board."

f. **Financial Reporting Form (Form B1):** is a document grantees are required to submit listing project expenditures by budget categories. This must be signed by a person authorized to approve financial transactions. An example Form B1 can be made available upon request to NPSgrants@DEQ.Virginia.gov.

g. **Milestone Table (Form C1):** is a document grantees are required to submit listing project deliverables and associated completion dates. Maintaining an updated milestone table is helpful for both the grantee and their associated partners, as well as the NPS Project Manager to ensure that the project is on target to meet goals within the project lifespan. An example Form C1 can be made available upon request to NPSgrants@DEQ.Virginia.gov

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Section III - Program References

This Manual referenced various websites and resources. Below is a compendium list of these resources for your easy referral.

1. **Virginia's Nonpoint Source Pollution Program Success Stories**
   https://www.deq.virginia.gov/water/water-quality/water-quality-success-stories
2. **DEQ TMDL Implementation Projects**
3. https://www.deq.virginia.gov/water/water-quality/implementation/tmdl-implementation-projects
   Virginia Agricultural Cost-share (VACS) BMP Manual
   http://consapps.dcr.virginia.gov/htdocs/agbmpman/agbmptoc.htm
4. **Virginia Stormwater BMP Clearinghouse**
   https://www.swbmp.vwrrc.vt.edu/
5. **The Virginia Stream Restoration and Stabilization Best Management Practices Guide:**
   https://www.deq.virginia.gov/Home/ShowDocument?id=7085
6. **Virginia Conservation Assistance Program (VCAP**)
   https://vaswcd.org/vcap-information
7. **VCAP Manual**
   https://vaswcd.org/vcap
8. **EPA's Final Financial Assistance Conflict of Interest Policy**
   http://www2.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy
9. **Code of Virginia State and Local Government Conflict of Interest Act**
   https://law.lis.virginia.gov/vacode/title2.2/chapter31/
10. **US Department of Labor, Bureau of Labor Statistics Wage Estimates**
    https://www.bls.gov/oes/current/oes_nat.htm
11. **Independent Sector Value of Volunteer Time**
    https://independentsector.org/resource/the-value-of-volunteer-time/
12. **The Environmental Data Mapper (EDM]**
    https://apps.deq.virginia.gov/EDM/
13. **DEQ Open Data Portal**
    https://geohub-vadeq.hub.arcgis.com/pages/open-data-portal
14. **Regional Office Contact Information**
    https://www.deq.virginia.gov/get-involved/about-deq/contact-us
15. **DEQ BMP Warehouse**
    https://apps.deq.virginia.gov/BMP/
16. **Fiscal Stress Index of Virginia Counties and Cities**
    https://www.dhcd.virginia.gov/fiscal-stress
17. **Virginia Housing Development Authority Median Household Income**
    https://www.vhda.com/BusinessPartners/PropertyOwnersManagers/Income-Rent-Limits/Pages/HUDMedianIncome.aspx
18. **U.S. Department of Housing and Urban Development Income Limits**
    https://www.huduser.gov/portal/datasets/il.html
19. **US Census Data Related to Income**
    https://www.census.gov/topics/income-poverty/data/tables.html
20. **US Census Information on Households versus Families**
    https://www.census.gov/topics/income-poverty/income/about/faqs.html
21. **Data Portal FAQs and Help**
    https://geohub-vadeq.hub.arcgis.com/pages/faqs-and-help
22. **Report on the Comparative Revenue capacity, Revenue Effort and Fiscal Stress of Virginia Counties**

and Cities https://www.dhcd.virginia.gov/fiscal-stress

23. **Virginia Department of Housing and Community Development Indoor Plumbing Rehabilitation**
    https://www.dhcd.virginia.gov/ipr
24. **Southeast Rural Community Assistance Project**
    http://sercap.org/virginia.htm
25. **Department of Professional and Occupational Regulation**
    http://www.dpor.virginia.gov/
26. **Onsite Sewage System Professionals**
    http://www.dpor.virginia.gov/Boards/WWWOOSSP/
27. **State Regulations 18VAC160-40**
    https://law.lis.virginia.gov/admincode/title18/agency160/chapter40/
28. **Virginia Department of Health Service Provider Map Search Tool**
    http://www.vdh.virginia.gov/environmental-health/onsite-sewage-water-services-updated/septic-system-and-private-well-service-providers/
29. **Department of Professional and Occupational Regulation License Lookup**
    http://www.dpor.virginia.gov/LicenseLookup/
30. **Information Management System of Public Records**
    http://www.dpor.virginia.gov/RecordsandDocuments/
31. **State Regulations 18VAC160-40-10**
    https://law.lis.virginia.gov/admincode/title18/agency160/chapter40/section10
32. **State Regulations 18VAC50-22-30. Definitions of Specialty Services**
    https://law.lis.virginia.gov/admincode/title18/agency50/chapter22/section30
33. **Board of Contractors Requirements for Qualified Individuals**
    https://www.dpor.virginia.gov/sites/default/files/boards/SSWP/REGS_OSSP%2004-2017.pdf
34. **Failure of a Sewage Disposal System, Virginia Department of Health (VDH), Chapter 610 Sewage Handling and disposal Regulations**
    https://law.lis.virginia.gov/admincode/title12/agency5/chapter610/section350
35. **Definitions from Virginia Department of Health Article 1 Sewage Disposal**
    https://law.lis.virginia.gov/vacode/title32.1/chapter6/section32.1-163/
36. **Regulations for Alternative Onsite Sewage Systems (VDH)**
    https://law.lis.virginia.gov/admincode/title12/agency5/chapter613/
37. **Natural Resources Conservation Service – Virginia's Environmental Quality Incentives Program**
    https://www.nrcs.usda.gov/wps/portal/nrcs/main/va/programs/financial/eqip/
38. **Natural Resources Conservation Service – Emergency Watershed Protection Program**
    https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp/
39. **Virginia Department of Conservation and Recreation's Agricultural BMP Cost-Share (VACS) Program**
    https://www.dcr.virginia.gov/soil-and-water/costshar2
40. **Virginia's Nonpoint Source Implementation Best Management Practice Specifications**
    https://www.deq.virginia.gov/home/showpublisheddocument?id=4355
41. **Onsite Sewage System Professional Licensure Regulations Summary Table**
    https://www.deq.virginia.gov/Home/ShowDocument?id=7082

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Section IV – TEMPLATES

Examples of Residential Septic Program Design and Guidelines

A. Robinson River and Little Dark Run
https://www.deq.virginia.gov/Home/ShowDocument?id=7079
B. North Fork Holston River (Washington)
https://www.deq.virginia.gov/Home/ShowDocument?id=7080
C. Tinker Creek and Glade Creek
https://www.deq.virginia.gov/Home/ShowDocument?id=7078

D. Template for Residential Septic Program Design and Guidelines

FY21:
https://www.deq.virginia.gov/home/showpublisheddocument?id=4369

E. DEQ Nonpoint Source Cost-share BMP Contract

https://www.deq.virginia.gov/home/showpublisheddocument?id=4351

F. Nonpoint Source Cost-share Program Agreement Transferring Responsibility for Best Management Practice

https://www.deq.virginia.gov/Home/ShowDocument?id=7083

G. Nonpoint Source Cost-share Program Assignment of On-site Sewage System Practices Cost-share Payment Authorization

https://www.deq.virginia.gov/Home/ShowDocument?id=7084

H. VDH Condition Assessment Form

http://www.vdh.virginia.gov/content/uploads/sites/20/2018/02/Condition-Assessment-02-20-2018.docx

I. VDH Permitting Process with DEQ NPS Program

https://www.deq.virginia.gov/Home/ShowDocument?id=7081

Section V- Summary of Changes in the DEQ NPS BMP Guidelines and Associated Documents for Fiscal Year 2022

This document compares the FY22 DEQ NPS BMP Guidelines to the FY21 version. Document excerpts indented with new language shown highlighted in grey and deleted language shown as ~~strikethrough~~. Please note that for large sections of deleted text we may not have included them here. For more information contact NPSgrants@DEQ.Virginia.gov.

Overall Document

URLs checked and updated throughout.

COVER PAGE

Fiscal year date range replaced with effective date.

COST-SHARE PROGRAM IMPLEMENTATION SCHEDULE – Page 1

Changed from calendar year to fiscal year format and updated accordingly.

SECTION I - VIRGINIA NONPOINT SOURCE (NPS) IMPLEMENTATION BEST MANAGEMENT PRACTICE (BMP) COST-SHARE PROGRAM

2.1 ELIGIBLE PRACTICES and Specifications - Page 3

PW-3: Wastewater Treatment System for Confined Canine Facilities (CCF) added as a demonstration BMP.

Language added on Urban/Suburban BMPs:

> **Urban/Suburban BMPs**: The NPS program requires, when appropriate, that grantees follow the VCAP specifications and cost-share rates as well as other components listed in the VCAP Manual[7]. This will provide consistency for 319(h)-funded urban/suburban projects. Note that NPS-funded projects utilizing VCAP materials are not VCAP projects themselves and are not administered by the Virginia Association of Soil and Water Conservation District's Virginia Conservation Assistance Program

No longer relevant, language on discontinuation of LE-1T and LE-2T practices removed:

> ~~**LE-1T and LE-2T practices:** As of July 1, 2019, DEQ no longer accepts new signup for LE-1T or LE-2T, as DCR has now created SL-6W and SL-6N. DCR practices eliminate the need for the LE practices; however, many Districts are using 319(h) funds for LE practices currently under construction prior to July 1, 2019. In those cases, Districts should refer to the specification written in the FY19 DEQ BMP manual[41].~~

Table 1: Virginia DEQ NPS Implementation BMPs – Page 4

Revision dates updated for all practices.

PW-3: Wastewater Treatment System for Confined Canine Facilities (CCF) added as a demonstration BMP.

2.2 IMPLEMENTATION FUNDING RESTRICTIONS – Page 5-6

Language added regarding DEQ's funding of buffer payments, consistent with DCR.

- **SL-6N and SL-6W**: DCR has ~~replaced~~discontinued the SL-6 practice and replaced it with SL-6N

(narrow width buffer) and SL-6W (wide width buffer). These practices also allow for varying cost-share rates depending on lifespan (10-15 years) and buffer width. Section 319(h) funds may be used to partially or fully fund these practices ~~similar to how 319(h) could partially or fully fund SL-6.~~following the DCR VACS specifications and rules, with the following stipulations:

- Section 319(h) cannot exceed 100% of the total practice cost, which the Section 319(h)~~ can~~ program defines for the SL-6W as be ~~used for~~ the approved or actual cost to install the BMP *plus* the buffer ~~incentive~~ payment ~~for~~rate. For example, if the total installation cost for an SL-6W practice is $50,000 with a total buffer payment of $8,000, the total practice cost is $58,000. In this case, the participant could not receive more than $58,000 in payments for this practice.
- 319(h) can fund the ~~SL-6W~~buffer payment rate following the DCR specifications and participant cap. This includes, for example, the case of a SL-6W with at least a 50-foot buffer and 15-year lifespan, which allows for 100% cost-share plus ~~a buffer payment incentive. DCR has discontinued the SL-6 practice, and DEQ has discontinued cost-share for LE-1T and LE-2T practices. The only restrictions on the use of 319(h) for the SL-6N and SL-6W practices is that 319(h) funds cannot exceed 100% of the practice cost; Districts should follow the VACS specifications including the participant cap.~~ an $80 per acre per year buffer payment rate. DEQ encourages Districts to fund these practices jointly with 319(h) and VACS. Jointly funded practices not only extend the use of 319(h) funds, but are also covered under the spot check process led by DCR and the SWCDs. Even splits of 95% 319(h) and 5% VACS are eligible.

- **WP-2N and WP-2W**: DCR has replaced the WP-2 practice with WP-2N and WP-2W. These practices allow for varying cost-share rates depending on lifespan (5 or 10 years) and buffer width. Section 319(h) funds can be utilized to cost-share on these new practices following the DCR VACS specifications and rules, with the following ~~exceptions:~~ stipulations:

- Section 319(h) cannot exceed 100% of the total practice cost. The Section 319(h) program considers the total practice cost to be the approved or actual cost to install the BMP plus the buffer payment rate. 319(h) can only fund the 10-year lifespan options for either practice; the 5-year lifespan options are not eligible. 319(h) can fund the buffer payment rate for the WP-2W following the DCR specification and buffer payment cap (with the exception of not funding 5-year lifespans).
- ~~319(h) can fund the buffer incentive payment for the WP-2W following the DCR specification and participant cap (with the exception of not funding 5-year lifespans).~~
- ~~319(h) cannot be used to exceed 100% of the practice cost.~~

3.5 Other Restrictions – Pages 8- 9

Note added regarding tagging of BMP location.

- **Geographic constraints**: Cost-share requests from outside the hydrologic unit(s) identified in the grant contract are **not** allowed. The location of the specific BMP must be tagged with a latitude/longitude or location within an IP boundary. There will be no exceptions. It is the **responsibility of the Grantee** to be aware of the location of BMPs in relation to the approved IP and/or project boundary. The DCR Tracking System and VEGIS (see Environmental Information below) can assist with identifying appropriate BMP locations.

Pet waste BMP PW-3 added to disuccion of demonstration BMPs.

- **Use of demonstration BMPs**: DEQ currently includes two agricultural BMPs (EM-1T and EM-1AT) and one pet waste BMP (PW-3) in these guidelines, which are to be implemented for

demonstration purposes only. ….

4.3 Cost-Share Rates - Pages 11-12

Clarified the description of the DCR participant cap.

- Combining VACS and 319(h) funds: It is possible for participants to combine funding between VACS and 319(h) to exceed VACS's $100,000 cap per participant per program year; however, using combined funding sources cannot exceed the practice specification's cost-share ~~*percentage*~~rate. For example, assume a WP-2W costs $200,000. DCR's participant cap limits cost-share to $100,000. ~~*Specification*~~ The cost share rate as defined in the DCR practice ~~*cap limits*~~specification allows cost-share to 80% of the practice cost~~*, which is $150,000*~~ plus a $80 per acre per year buffer payment. For this example we will say there are two acres of buffer being created by the BMP. Cost share for this practice would be $161,600 (80% of $200,000~~*, so*~~plus the $1,600 buffer payment). In this example, the participant could receive $~~*50,000*~~61,600 from ~~*DEQ*~~319(h) and $100,000 from ~~*DCR*~~VACS for a ~~*maximum*~~total of $~~*150,000*~~161,600 in cost-share. If the participant were to use DCR's variance process to request cost-share that would exceed its participant cap to receive $125,000 from DCR and also receive 319(h) funding, then the total cost-share the participant receives still could not exceed the practice specification's ~~*75*~~80% cost-share ~~*cap percentage*~~plus buffer payment rate, or $~~*25,000*~~36,600 in 319(h) funding~~*, if jointly funded."*~~. Note that DCR Data Services staff will have to be contacted through the appropriate CDC to adjust estimated cost share payment calculated by the AgBMP Tracking Module.

4.4 Cost-Share Funding Caps and Cap Variance Requests - Page 12

Clarified the description of the variance process.

- **Agricultural "VACS" BMPs**: Any eligible BMP listed in Table 2 that is considered a VACS practice shall follow the participant cap for FY21 listed in the DCR Virginia Agricultural Cost-share (VACS) BMP Manual[3]. This pertains to practices not specified with a "T.~~" DCR now allows variances for some of these practices. 319(h) will also maintain a separate $100,000 participant cap for VACS practices; no more than $100,000 in 319(h) funds can be provided for a VACS-eligible practice, whether funded solely with 319(h) or jointly with VACS funds.~~Per the DCR Virginia Agricultural Cost Share (VACS) Manual, Districts may request a variance to exceed the current participant VACS cap per applicant per Program Year for eligible practices. 319(h) funding may be used in conjunction with VACS funding for these BMPs which have received a variance, but the 319(h) funding amount cannot exceed the program year participant cap of $100,000. Note: for DCR practices eligible for variance but 100% funded by 319(h), a variance will not be allowed; DEQ currently does not have a variance process for VACS practices. For these same practices jointly funded by VACS and 319(h), variances will be handled by DCR but will only address the participant cap for VACS funding (see funding example in 4.3).

7.3 Guidance on Volunteer Hours – Page 25

Updated national value of volunteer time.

…. If no clear estimate is available from these sources, DEQ will accept the national value of volunteer time (including fringe) listed on the Independent Sector[11] website. The current (~~2019~~as of July 2020) average hourly rate is $~~25.43~~27.20.

7.4 Environmental Information (or BMP Location Verification) – Pages 25-26

Section revised to reflect the new Environmental Data Manager and Data Hub.

Please use the approved DEQ/EPA implementation plan watershed boundaries when determining the scope of an implementation project and for locating a BMP. ~~The Virginia Environmental Geographic Information System (VEGIS) is a good resource that may help you create~~DEQ provides ~~an implementation map. VEGIS is provided by DEQ here[~~online mapping tool (Environmental Data Mapper (EDM))[12] or users can download GIS data sets for their own analyses at the DEQ Open Data Portal.

~~A user must ADD~~In EDM, open the ~~Implementation Watersheds map layer; this can be done through the following steps.~~

~~1. You must "Add Map Layers" (TMDL_IP_Watersheds) – Add~~Layer Lists menu by clicking ~~on the TMDL_IP_Watersheds within the Public folder~~the stack of papers icon in the ~~left-hand pane, and then click on the green plus sign in the~~upper right.~~hand pane. Then turn on (click or place a checkmark by) the watershed layer in the table of contents on the left, and the implementation watersheds will display.~~

~~2. More information is available for each Implementation~~Under the dropdown of DEQ Data Layers, expand the TMDL/IP Watershed ~~by using the "identify" tool and then checking in the Results tab in the Table of Contents on the left of the map.~~

~~Note that there are two status fields: one for the Report Status and one for the Watershed Status. The Report Status refers~~Layers to ~~whether an implementation plan is in Draft, Completed, or Approved. The Watershed Status refers to whether a Project is Underway, Project Not Assigned, or Project Closed~~show the layers available.

Once the ~~TMDL IP~~Implementation Watersheds layer is ~~loaded~~checked on for display, there are various ways you may utilize the application in order to determine if a BMP is within a specific TMDL IP. For example, a Grantee may use the "Search" window in the upper ~~right~~left-hand corner of the map viewer. Type the address of where a BMP is located and then be sure click anywhere in the vicinity to use ~~the identify~~pop-up window tool to determine if it within the desired TMDL IP area.

A fiscal stress layer displayed by county is also available~~and grouped with the TMDL IP Watersheds map service in VEGIS~~. These data come from the Virginia Department of Housing and Community Development and are updated annually. Grantees may utilize this layer to determine participants' eligibility for increased rates of cost-share based on the fiscal stress ranking of the locality in which a practice is located. More information is provided in the Residential Septic Program Guidelines section of this document.

~~Grantees who have their own~~Advanced GIS ~~systems~~users may download up-to-date spatial data from the Open Data Portal for use in ~~ArcGIS~~ desktop ~~from the datasets available here[13].~~

~~The **TMDL_IP_Watersheds_Geodatabase.zip** is updated nightly. Once you have unzipped the file, the polygon layer(s) can be added to ArcMap. There are two polygon layers in the geodatabase, the TMDL Watersheds layer and the Implementation Watersheds layer. The Implementation Watersheds layer will display all implementation watershed boundaries in Virginia and their associated attribution, such as Report and Project Status~~GIS applications.
Grantees are encouraged to contact DEQ with questions on how to access data. Primary contact may be made with Kristy Woodall (Kristy.Woodall@DEQ.Virginia.gov) or the ~~appropriate regional NPS Project Manager (see contact information here[14]).~~regional NPS Coordinator. Users can also check the FAQs and Help page for training videos and other support

SECTION II- RESIDENTIAL SEPTIC PROGRAM GUIDELINES - Page 31

III.b Cost-share Rate Structure – Pg. 31

Revised discussion of fiscal stress designations.

i. Determining Fiscal Stress: Grantees will utilize the most recently available "Report on the Comparative Revenue Capacity, Revenue Effort and Fiscal Stress of Virginia Counties and Cities[22]" to determine fiscal stress classification of their project area. DEQ staff will be available to assist with this. Areas will be considered to have no fiscal stress if they are shown to have ~~average,~~ below average~~,~~ or ~~no~~low fiscal stress. An area will be considered to have fiscal stress if it is designated as either above average or high fiscal stress. Grantees must receive DEQ approval of their fiscal stress determination for their project area using the fiscal stress classification of the localities in their project area at the time the Grantee applies for funding. If the Grantee has received approval to use the Fiscal Stress rate structure and the locality's fiscal stress classification changes, the Grantee may continue to use the Fiscal Stress rate structure for the remainder of the grant contract.

ii. The cost-share rate structure will be determined during the Request for Applications process for newly awarded grants~~; existing Grantees should consult with DEQ to determine a cost-share rate structure for their grant implementation area.~~ The table representing the selected cost-share rate structure ~~should~~must be included in a Grantee's Residential Program Guidelines. If an implementation area comprises multiple different fiscal stress ~~indexes,~~classifications (e.g. Above Average and Below Average), applicants must provide rationale in their application for the rate structure they will use.

- **No Fiscal Stress:** Those BMPs determined to be located within localities which have an overall fiscal stress ranking of ~~average,~~ below average or no fiscal stress will be eligible for a cost-share rate of 55%-80% for all income-verified thresholds (<40%, 41-60%, 61-80%, 81-100% and 100-120%). The cost-share rate of 50% to 80% is applied to the total eligible cost and has a maximum payment amount (cap) based on the average total practice amount (see Table 4 below).

Note: fiscal stress designations also updated in tables that follow above text in this section.

IV.g Tree Removal and Land Clearing – Pg. 38

Clarifcation added to discussion of tree removal.

i. To qualify, the site must be reviewed and evaluated by an appropriately licensed professional who determines that the only viable site on the property for the proposed septic work would require the removal of trees or clearing of land. Tree removal and land clearing on its own (separate from and not related to site preparation to do authorized and eligible septic work) is not allowed.

ii. A DEQ-granted variance is no longer required if the total costs (BMP and tree removal) are within the cost-share cap; however, the Grantee should collect and file the required documents (see "iv" below). A grantee would need to request a variance from DEQ (in advance) only if the approved activity exceeds the practice cap. For example: The cost of a septic BMP is $5,000 and the landowner is eligible for 80% cost-share, or $4k. The practice cap is $4,500. Then, it was determined that several

trees needed to be removed to install the practice. The cost estimate then goes up to $8,000. The landowner is still eligible for 80% cost-share (which is now $6,400) but it exceeds the practice cap. So, the grantee would request a variance to pay for the extra costs ($1,900) due to the removal of trees. See page 12, Section 4.4 on how to submit a variance request for residential septic BMPs.

VI.h. Process to Address Change in Need after BMP is Complete and in Lifespan – Pg. 42-43

Revisions made to process for cancelling a BMP while in lifespan and signing up for an "upgraded" BMP.

i. The Grantee has an existing DEQ grant and funds available in the location of the existing BMP.

ii. The Grantee has developed a process or procedure, approved by DEQ, by which these types of situations are addressed, which minimally include the following:

~~iii. Specific situations have been identified in the Residential Septic Guidelines where the Grantee will allow this to occur.~~

~~iv.~~ i. ~~The participant provides documentation of proper maintenance of the original practice.~~There is no evidence that the original practice has been improperly maintained. Examples of improper maintenance may include parking vehicles on the drainfield or putting paint, oils, wipes, or other non-recommended items into the system. Funds for the new practice will not be provided if there is evidence of failure due to improper maintenance.

~~iv.~~ ii. The ~~participant would only~~ existing BMP contract needs to be ~~eligible for~~canceled and a pro-rated amount of cost-share for the existing BMP based upon the remaining lifespan would be returned by the participant to the grantee. And then a new contract would be issued for the ~~new practice after crediting what was fully paid by DEQ NPS funds~~BMP for the ~~old practice.~~ ~~Example: A~~ amount of cost-share that the participant is eligible for ~~50% of $24,000 for~~based upon new income review and the cost of the new BMP.

- Example #1: Participant currently has an RB-3, is in year 5 ~~but~~of a 10-year lifespan and had received $3,000 ~~for RB-3, so~~ in cost-share. The participant ~~would be~~needs a new RB-5 at a total of $24,000 and is eligible for ~~$9~~50% cost-share.
  - i. The RB-3 contract would be canceled, and the participant would return $1,500 (5/10=50% x $3,000~~instead of~~=$1,500) to the Grantee.
  - ii. The participant would sign a new 10-year contract for the RB-5 and receive $12,000 ($24,000 x 50%).
- Example #2: A pump-out was completed~~, and in~~In year 2 of the 5-year lifespan, the practice had a failure and a replacement is needed (RB-4). ~~The $150 paid for the pump-out would be subtracted from the amount of cost-share funds for which the applicant~~
  - i. The RB-1 contract would be ~~eligible~~canceled, and the participant would return $90 (3/5=60% x $150=$90) to the Grantee.
  - ~~ii. Note: The Grantee may need to work with DEQ and DCR if the DCR BMP Tracking System will not allow the Grantee to deduct the amount of cost-share funds from the new practice cost-share amount.~~

~~v. Efforts would be made to assure that "double counting" of the practice doesn't occur. This may include cancelling the existing ("old") practice and initiating sign-up for the new practice.~~

ii. A new 10-year contract for an RB-4 would be issued at the new cost and eligible cost-share rate based upon participant's income

iii. The participant ~~agrees~~signs a new BMP contract agreeing to maintain the practice for the full lifespan of the new practice.

~~iv. Prior approval by DEQ is received before final contract is issued, Grantee approves work, or work begins.~~

iv. Grantee should provide documentation to DEQ that a BMP was canceled and a new BMP was issued so DEQ can ensure there is not double counting of BMPs.