



Director Resource Notebook

For Soil and Water Conservation District Directors
By the Virginia Department of Conservation and
Recreation 2026

Director Resource Notebook

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SECTION I

QUICK REFERENCES

The 'Alphabet Soup'

Common Acronyms and Government Agencies

Common Terminology:

APOW – Annual Plan of Work

BMP – Best Management Practice

CB or Ches Bay – Chesapeake Bay, generally refers to the geographical area of Virginia draining to the Chesapeake Bay

CBPA – Chesapeake Bay Preservation Area, refers to a geographical area, east of I-95, mandated in Code and subject to regulations of the Chesapeake Bay Preservation Act

CDC – Conservation District Coordinator (state, DCR staff assigned to SWCDs by region)

COIA – Conflict of Interests Act

COVLC – Commonwealth of Virginia Learning Center

CPC – Conservation Planner Certification

CREP – Conservation Reserve Enhancement Program, funding program federal and state dollars

CRP – Conservation Reserve Program, a federal funding source, FSA

CSP – Conservation Stewardship Program, a federal funding source, NRCS

CWFA – Clean Water Farm Award

DC – District Conservationist (federal, NRCS assigned by area offices)

DHRM – Department of Human Resource Management

EJAA – Engineering Job Approval Authority

EQIP – Environmental Quality Incentives Program, a federal funding source, NRCS

EOY – End of Year

FOIA – Freedom of Information Act

JED – Joint Employee Development

LOV – Library of Virginia

NMP – Nutrient Management Plan

NFWF – National Fish and Wildlife Foundation

OCB – Outside the Chesapeake Bay, generally refers to the geographical area of Virginia that does not drain to the Chesapeake Bay.

PIP – Performance Improvement Plan

RCPP – Regional Conservation Partnership Program, a federal funding initiative, NRCS partnership with state and non-government organizations.

RFP – Request for Proposal

RMP – Resource Management Plan

SHI - Small Herd Initiative

The ‘Alphabet Soup’ Common Acronyms and Government Agencies

SWCD – Soil and Water Conservation District

SFOP - Small Farm Outreach Program

TA – Technical Assistance

TAC – Technical Advisory Committee

TMDL - Total Maximum Daily Load

TRC – Technical Review Committee

VACS – Virginia Agricultural Cost Share, a state funding source, primarily from DCR, provided to Districts for installation of Ag BMPs

VCAP – Virginia Conservation Assistance Program, provided through the VASWCD and local SWCDs

Government Agencies:

CBLAB – Chesapeake Bay Local Assistance Board (state, within DEQ)

COE, ACOE, or The Corps – United States Army Corps of Engineers (federal)

DCR – Virginia Department of Conservation and Recreation (state)

DEQ – Virginia Department of Environmental Quality (state)

DOF – Virginia Department of Forestry (state)

DWR – Virginia Department of Wildlife Resources (state)

DSFM – DCR Division of Dam Safety and Floodplain Management

DSWC or Division – DCR Division of Soil and Water Conservation

EPA – Environmental Protection Agency (federal, VA is in EPA Region 3)

FSA – Farm Service Agency (federal)

VNRCF - Virginia Natural Resources Commitment Fund

VRA –Virginia Resources Authority

WFA- Whole Farm Approach

WIP – Watershed Implementation Plan

WQIA – Water Quality Improvement Act

WGIF – Water Quality Improvement Fund

319 – A federal funding type for water quality grants and funds, issued by EPA to the Virginia DEQ and passed through to Districts through various grant processes

The 'Alphabet Soup' Common Acronyms and Government Agencies

GA- General Assembly (state)

NACD – National Association of Conservation Districts (non-profit organization)

NRCS – Natural Resources Conservation Service (federal)

OAG – Office of Attorney General (state)

SEAS – Shoreline Erosion Advisory Service (state, within DCR)

SWCD – Soil and Water Conservation District (political subdivision of state government)

USDA – United States Department of Agriculture (federal)

USFS – United States Forest Service (federal)

USFWS – United States Fish and Wildlife Service (federal)

USGS – United States Geological Survey (federal)

VACDE – Virginia Association of Conservation District Employees

VASWCD – Virginia Association of Soil and Water Conservation Districts (non-profit organization)

VCE or Extension – Virginia Cooperative Extension (state, land grant universities)

VDACS – Virginia Department of Agriculture and Consumer Services (state)

VSU- Virginia State University

VT – Virginia Tech

VSWCB – Virginia Soil and Water Conservation Board (state, within DCR)

2026 Virginia Agricultural Cost-Share, Tax Credit and CREP BMPs

Practice Code	Practice Name	Revision Date	Tax Credit	VACS Cost-Share	Requires NM Plan	Requires a Conservation Plan for Cost-Share	Ag BMP Loan*	CREP	Lifespan (Years)
CCI-CNT	Continuing Conservation Initiative Long Term Continuous No-Till Planting System	4/2025	^	X	X				5
CCI-FRB-1	Continuing Conservation Initiative Forested Riparian Buffer – Maintenance Practice	4/2025	^	X					5
CCI-HRB-1	Continuous Conservation Initiative Herbaceous Riparian Buffer – Maintenance Practice	4/2023	^	X					5
CCI-RT	Continuing Conservation Initiative Long Term Continuous Reduced Tillage Planting System	4/2024	^	X	X				5
CCI-SE-1	Continuing Conservation Initiative Stream Exclusion – Maintenance Practice	4/2024	^	X					5
CCI-SL-6N	Continuing Conservation Initiative Stream Exclusion with Narrow Width Buffer – Maintenance Practice	4/2025	^	X					5
CCI-SL-6W	Continuing Conservation Initiative Stream Exclusion with Wide Width Buffer – Maintenance Practice	4/2025	^	X					5
CCI-WP-2N	Continuing Conservation Initiative Stream Protection with Narrow Width Buffer – Maintenance Practice	4/2025	^	X					5
CCI-WP-2W	Continuing Conservation Initiative Stream Protection with Wide Width Buffer – Maintenance Practice	4/2025	^	X					5
CCI-WP-4	Continuing Conservation Initiative Animal Waste Control Facility – Maintenance Practice	4/2025	^	X					5
CCI-WP-4C	Continuing Conservation Initiative Composter Facilities – Maintenance Practice	4/2025	^	X					5
CP-21	CREP Grass Filter Strip	4/2023				X		X	CREP contract
CP-22	CREP Riparian Forest Buffer	4/2023				X		X	CREP contract
CP-23	CREP Wetland Restoration Rent	4/2023				X		X	CREP contract
CP-29	CREP Wildlife Habitat Buffer	4/2023				X		X	CREP contract
CRFR-3	CREP Woodland Buffer Filter Area	4/2023	X			X		X	CREP contract
CRLF-1	CREP Linear Foot of Streambank Protected	4/2023				X		X	CREP contract
CRSL-6	CREP Stream Exclusion with Grazing Land Management	4/2023	X			X		X	CREP contract
CRWP-2	CREP Stream Protection	4/2023	X			X		X	CREP contract
CRWQ-1	CREP Herbaceous Riparian Buffers	4/2023	X			X		X	CREP contract

Practice Code	Practice Name	Revision Date	Tax Credit	VACS Cost-Share	Requires NM Plan	Requires a Conservation Plan for Cost-Share	Ag BMP Loan*	CREP	Lifespan (Years)
CRWQ-6B	CREP Wetland Restoration	4/2023	X			X		X	CREP contract
CRWQ-11	CREP Agricultural Sinkhole Protection	4/2023	X			X		X	CREP contract
FR-1	Afforestation of Crop, Hay and Pasture Land	4/2024	X	X		X			10/15
FR-3	Woodland Buffer Filter Area	4/2024	X	X		X	X		10/15
FR-3M	Woodland Buffer Filter Area Maintenance	4/2023	X	X		X			Annual
FR-4	Woodland Erosion Stabilization	4/2023	X	X		X			5
NM-1A	Nutrient Management Plan Writing and Revisions	4/2023	%	X					Annual
NM-3C	Sidedress Application of Nitrogen on Corn, Grain Sorghum, and/or Cotton	4/2024	X	X	X				Annual
NM-4	Late Winter Split Application of Nitrogen on Small Grains	4/2024	X	X	X				Annual
NM-5N	Precision Nutrient Management on Cropland – Nitrogen Application	4/2024	X	X	X				Annual
NM-5P	Precision Nutrient Management on Cropland – Phosphorus Application	4/2024	X	X	X				Annual
NM-6	Manure Injection	4/2023	X	X	X				Annual
NM-7	Cover Crop for Managing Liquid or Semi-Solid Manure	4/2024	X	X	X				Annual
RMP-1	Resource Management Plan Development	4/2023	%	X	X	X			N/A
RMP-2	Resource Management Plan Implementation	4/2023	%	X	X	X			N/A
SE-1	Vegetative Stabilization of Marsh Fringe Areas	4/2024	X	X		X			5
SE-2	Shoreline Stabilization	4/2024	X	X		X	X		15
SL-1	Long Term Vegetative Cover on Cropland	4/2024	X	X	X	X	X		5/10/15
SL-3	Stripcropping Systems	4/2023	X	X	X	X			5
SL-3B	Buffer Stripcropping	4/2023	X	X	X	X			5
SL-4	Terrace Systems	4/2023	X	X	X	X	X		10
SL-6B	Alternative Water System	4/2023	X			X	X		10
SL-6F	Stream Exclusion in Floodplains	4/2024	X	X		X	X		10/15
SL-6N	Stream Exclusion with Narrow Width Buffer and Grazing Land Management	4/2025	X	X		X	X		10/15
SL-6W	Stream Exclusion with Wide Width Buffer and Grazing Land Management	4/2025	X	X		X	X		10/15
SL-7	Extension of Watering and Grazing Management Systems	4/2025	X	X		X	X		10/15
SL-8	Protective Cover for Specialty Crops	4/2025	X	X					Annual
SL-8A	Protective Cover for Agricultural Cropland	4/2025	X	X	X				Annual
SL-8B	Small Grain and Mixed Cover Crop for Nutrient Management and Residue Management	4/2025	X	X	X				Annual
SL-8H	Harvestable Cover Crop	4/2025	X	X	X				Annual

Practice Code	Practice Name	Revision Date	Tax Credit	VACS Cost-Share	Requires NM Plan	Requires a Conservation Plan for Cost-Share	Ag BMP Loan*	CREP	Lifespan (Years)
SL-8M	Small Grain and Mixed Cover Crop for Nutrient Management and Residue Management with Fall Manure Application	4/2025	X	X	X				Annual
SL-10	Grazing Land Management	4/2025		X		X			3
SL-11	Permanent Vegetative Cover on Critical Areas	4/2023	X	X		X			5
SL-11B	Farm Road, Animal Travel Lane, Heavy Use Area Stabilization	4/2023	X			X	X		10
SL-15A	Continuous High Residue Minimal Soil Disturbance Tillage System	4/2024	X	X	X				5
SL-15B	Continuous Conservation Tillage Production System	4/2024	X	X	X				5
WFA-CC	Whole Farm Approach – Cover Crop Bundle	4/2025		X	X				Annual
WFA-NM	Whole Farm Approach – Nutrient Management Bundle	4/2024		X	X				Annual
WP-1	Sediment Retention, Erosion or Water Control Structures	4/2023	X	X		X	X		10
WP-2A	Streambank Stabilization	4/2024	X	X		X	X		15
WP-2B	Stream Crossings & Hardened Access	4/2023	X			X	X		5
WP-2C	Stream Channel Stabilization	4/2023	X			X	X		5
WP-2N	Stream Protection (Fencing With Narrow Width Buffer)	4/2023	X	X		X	X		5/10
WP-2P	Portable Fencing for Stream Protection	4/2023		X		X			5
WP-2W	Stream Protection (Fencing With Wide Width Buffer)	4/2023	X	X		X	X		5/10
WP-3	Sod Waterway	4/2023	X	X		X			10
WP-4	Animal Waste Control Facilities	4/2025	X	X	X	X	X		15
WP-4B	Dairy Loafing Lot Management System	4/2024	X	X	X	X	X		15
WP-4C	Composter Facilities	4/2025	X	X	X	X	X		15
WP-4E	Animal Waste Structure Pumping Equipment	4/2023	X		X	X	X		10
WP-4F	Animal Mortality Incinerator Facilities	4/2025	X	X	X	X	X		15
WP-4FP	Feeding Pad	4/2024	X	X	X	X			15
WP-4LC	Animal Waste Control Facility for Confined Livestock Operations	4/2024	X	X	X	X	X		15
WP-4LL	Loafing Lot Management System with Manure Management (Excluding Bovine Dairy)	4/2024	X	X	X	X	X		15
WP-4SF	Seasonal Feeding Facility with Attached Manure Storage	4/2024	X	X	X	X	X		15
WP-5	Stormwater Retention Pond	4/2023	X			X	X		10
WP-7	Surface Water Runoff Impoundment for Water Quality	4/2023	X			X	X		10
WP-8	Relocation of Confined Feeding Operations from Environmentally Sensitive Areas	4/2023	X		X	X	X		10
WQ-1	Grass Filter Strips	4/2023	X	X	X	X			10/15

Practice Code	Practice Name	Revision Date	Tax Credit	VACS Cost-Share	Requires NM Plan	Requires a Conservation Plan for Cost-Share	Ag BMP Loan*	CREP	Lifespan (Years)
WQ-4	Legume Based Cover Crop	4/2025	X	X	X				Annual
WQ-5	Water Table Control Structures	4/2023	X	X		X	X		10
WQ-6	Constructed Wetlands	4/2023	X		@	X	X		10
WQ-6B	Wetland Restoration	4/2023	X			X	X		10
WQ-7	Irrigation Water Recycling System	4/2023	X			X	X		10
WQ-8	Fuel Storage Treatment	4/2023	X			X	X		10
WQ-9	Capping/Plugging of Abandoned Wells	4/2023	X			X			10
WQ-10	Integrated Pest Management	4/2023	X			X			Annual
WQ-11	Agricultural Sinkhole Protection	4/2025	X	X		X			10
WQ-12	Roof Runoff Management System	4/2023	X	X		X	X		10

The Agricultural BMPs below are funded and administered by the Department of Environmental Quality (DEQ) Total Maximum Daily Load (TDML) Program. Additional information can be found at: [Implementation Cost Share Residential and Agricultural BMP Guidelines](#).

Practice Code	Practice Name	Revision Date	Tax Credit	VACS Cost-Share	Requires NM Plan	Requires a Conservation Plan for Cost-Share	Ag BMP Loan*	CREP	Lifespan (Years)
SL-6AT	Small Acreage Grazing System (TDML)	3/2022	X			X	X		10
EM-1T	Small Scale Manure Composting for Equine Operations – Static Systems	2/2018					X		10
EM-1AT	Small Scale Manure Composting for Equine Operations – Aerated Systems	2/2018					X		10

^ This BMP is a continuation or extension of an existing practice established by the applicant. The applicant was eligible to receive a tax credit for 25% of the first \$100,000 of the expense of the existing, previously installed BMP for the taxable year in which the practice was completed, pursuant to section 58.1-339.3 or 58.1-439.5 (Code of Virginia). If the applicant has an approved Resource Management Plan, the applicant is eligible to receive a tax credit for 50% of the first \$100,000 of the expense of the existing, previously installed BMP for the taxable year in which the practice was completed, pursuant to section 58.1-339.3 or 58.1-439.5 (Code of Virginia).

% This practice does not meet the definition of a tax credit-eligible Agricultural BMP as defined in section 58.1-339.3 (5.B.) (Code of Virginia), as the cost share rate is provided to acquire a Virginia certified professional nutrient management planner to generate a plan, and not to implement a conservation practice on the ground.

* The “X” in the “Ag BMP Loan” column denotes BMPs that are eligible for a loan from the Virginia Clean Water Revolving Loan Fund (VCWRLF) administered by the Department of Environmental Quality.

@ Only if wetland is constructed to treat animal waste runoff

Note: Sections 58.1-339.3 and 58.1-439.5 of the Code of Virginia require a participant to have a soil conservation plan approved by the local Soil and Water Conservation District in order to be eligible to receive an agricultural best management practices tax credit, regardless of the type of implemented practice.



Virginia Conservation Assistance Program (VCAP)

A financial assistance program for residential-scale stormwater management

Overview

The Virginia Conservation Assistance Program (VCAP) is a cost-share program for the installation of stormwater management practices. VCAP was started in 2016 as a sister-program to the Virginia Agricultural Cost Share Program (VACS) to treat runoff from residences, businesses, schools, and places of worship.

VCAP addresses three resource concerns: erosion, poor ground cover, and excess runoff. These resource concerns are evidence of a water quality issue. The resource concerns contribute to non-point source pollutant loads to waterways--most critically, nitrogen, phosphorus and sediment.



Basic Practices

- Conservation Landscaping
- Meadows (CL-1)
- Tree Plantings (CL-2)
- Mulched Beds (CL-3)
- Filter Strips (CL-4)
- Riparian Buffers (CL-5)
- Impermeable Surface Removal (ISR)
- Rainwater Harvesting (RWH)



Infiltration Practices

- Rain Gardens (RG)
- Dry Wells (DW)
- Permeable Pavers (PP)
- Vegetated Stormwater Conveyance
 - Dry Swale (VSC-DS), Wet Swale (VSC-WS), Step-Pool Conveyance (VSC-SPC)
- Bioretention (BR)
- Infiltration (IF)



Unique or Constrained Practices

- Living Shorelines
- Green Roof
- Constructed Wetlands

VCAP Practices and Specifications

VCAP has a suite of 12 practices, listed left.

Selecting the appropriate practice for a location depends on the landowner's needs, the resource concern, and characteristics of the site (area available to the practice, contributing drainage area, soil characteristics). Practice specifications are outlined in the VCAP Manual, available on the Association's website.

Cost-share rates are dependent on the practice. Most practices are limited to 80% of eligible costs up to a practice cap. Caps range from \$7,000 for conservation landscaping and up to \$30,000 for highly engineered practices like living shorelines and bioretention basins.

Some practices have a per-unit cost share rate. For example, rainwater harvesting is calculated as a \$4 per gallon treated, up to a 1" storm for the contributing drainage area. All practices are reported to the Department of Environmental Quality for crediting towards the WIP III Goals.

Virginia Association of Soil and Water Conservation District's Responsibility

The Association of Soil and Water Conservation District's is a non-profit association of the 47 soil and water conservation districts in Virginia. The Association is a voluntary, nongovernmental association that supports districts in their work with natural resource conservation and education.

The Association is the managing entity for VCAP. The Association applies for grants to support VCAP, manages those grants, distributes cost-share and technical assistance funding to districts on a per-contract basis, and provides programmatic support with input from districts. The Association is supported by a Steering Committee and a Technical Advisory Committee.

All reporting for VCAP is managed by the Association. In addition to grant reporting, the Association submits all tracking information on VCAP practices to the Department of Environmental Quality to allow for pollution reduction crediting towards the Chesapeake Bay TMDL and WIP goals.

Steering Committee

The Steering Committee is comprised of one representative from up to six districts, with support from two Association employees (the VCAP Coordinator and Assistant Coordinator). The Steering Committee's purpose is to provide programmatic and technical oversight for VCAP to ensure that the program provides water quality benefits while remaining accessible to participants. The Steering Committee meets monthly to review applications for compliance with practice specifications. Steering Committee meetings are open to the public to attend, and they are typically virtual. Contact the Association for information about these meetings.

Technical Advisory Committee

VCAP has a Technical Advisory Committee (TAC) that provides expert input on available best management practices. The TAC is comprised of district staff, directors, partner organizations, and field experts (stormwater engineers, shoreline management experts, and native plant and landscaping designers). The TAC meets on an as-needed basis, at least once a year.

Financial Management

All cost-share funds for VCAP are held by the Association and distributed to districts on an as-needed basis—an important distinction from the VACS cost-share process. Because all cost-share funds are held at the Association level, funding is available to participants on a first-come, first-served basis. Districts do not receive allocations of VCAP cost share, districts are not obligated to spend a certain amount of VCAP cost share, and district technical assistance funding is not tied to VCAP output. Instead, districts receive a flat technical assistance payment per contract paid out, currently \$1200.

VCAP cost share must pass through district accounting. Monthly, the Steering Committee reviews payment requests to confirm project installation meets specifications. After payment requests are approved, the Association disburses funds to the district for cost share and technical assistance payment. The district must pass the cost-share funding to the participant. This system allows VCAP contracts to be under the purview of the Office of the Attorney General, although the grants are originally held by the Association.

Cost-share funding is considered taxable income. Districts must issue a 1099 to VCAP participants each calendar year, to be issued before January 31.

VCAP was originally funded by grants from the National Fish and Wildlife Foundation and the Department of Environmental Quality. In recent years, most of the cost-share funding has been from Department of Conservation and Recreation grants with operational support from the Department of Environmental Quality.

District Responsibility

Districts are responsible for local implementation of VCAP under the direction of their Board.

It is the responsibility of the district to retain VCAP contracts and associated records. Contracts that are paid out on or after July 1, 2022, without all required signatures will result in the repayment of the VCAP cost share and associated technical assistance to the Association, at the discretion of the Steering Committee. VCAP contracts are reviewed as part of financial audits conducted by the Department of Conservation and Recreation.

It is important to note that the Steering Committee is reviewing applications for compliance with technical specifications. It is not required for district boards to review VCAP applications for technical compliance. However, some districts have developed their own technical review committees comprised of directors and staff. This district-level attention can be

meaningful to support engagement around VCAP, prioritize local goals, and for providing local guidance on practice design and installation. At a minimum, district boards should be aware of the number, practice type, and cost-share requests when signing contracts.

Innovative Strategies Available to Districts

Districts may develop their own secondary criteria to delineate when and how site visits and applications are accepted. Districts can also develop MOUs with neighboring districts and partner organizations to administer VCAP.

Creative funding structures and partnerships are part of how VCAP has continued to grow. Below are three examples of creative partnerships available to districts that can allow VCAP to be provided to residents:

Partnership Strategies to Broaden VCAP Availability

Inter-district Partnership	Non-Profit Partnership	Locality Partnership
<ul style="list-style-type: none">• MOU between two districts• A district can offer to conduct VCAP site visits, develop VCAP applications, retain contracts, and process cost-share payments <i>on behalf of another district</i>.• Provides a community service while allowing districts to best use their own skills and time.• All or part of the technical assistance payment is retained at the district providing the field and application work.	<ul style="list-style-type: none">• MOU between a district and a non-profit partner• Partner conducts site visits, constructs applications, communicates with applicant.• District processes applications, retains contracts, and disburses cost-share.• Partner receives all or part of associated technical assistance payment.	<ul style="list-style-type: none">• MOU between a district and a locality• Type 1: provides VCAP to a locality not currently served by a district (e.g., City of Hampton).• Type 2: offer a VCAP-like program using locality funding (e.g., ACAP, Albemarle County's local funding program)<ul style="list-style-type: none">• If using locality funding, often prioritizes specific water quality goals, practices, or socioeconomic groups.• Often uses the VCAP manual as guidance, with local adaptations.

Resources

All documents associated with VCAP are housed on the Association website, accessible at www.vaswcd.org/vcap.

For questions concerning practice specifications, please see the latest edition of the *VCAP Implementation and Design Manual* available at the Association website.

ATTACHMENT C (Evaluation Guidance for Department/District Fiscal Year 2026 Grant Agreement Performance Deliverables)

Grant Agreement Performance Deliverable	Fully Satisfied "A"	Partially Fulfilled "B"*	Did Not Fulfill "C"*
1. Demonstrates leadership by promoting nonpoint source pollution reduction and related conservation efforts through support of, reporting for, and/or implementation of the following programs: <ul style="list-style-type: none"> • The Virginia Agricultural BMP Cost-Share Program • The Virginia Agricultural BMP Tax Credit Program • Conservation Reserve Enhancement Program (CREP) • Voluntary BMP installation • TMDL development and implementation processes • Agricultural Stewardship Act • Resource Management Plan (RMP) Program 	Demonstrates implementation of all but one listed program applicable to the District. Demonstrates leadership in the conservation of soil and water resources.	Implements and supports conservation programs and initiatives applicable to the District but fails to effectively carry out or support two programs.	Fails to deliver and/or support programs and initiatives applicable to the District with multiple deficiencies demonstrated. Leadership in the conservation of soil and water resources is lacking or nonexistent.
2. Actively support and foster partnerships to deliver natural resource conservation programs with consideration to resource needs and issues with local governments, the agricultural community, agencies, organizations, councils, roundtables, and others to protect soil resources, improve water quality, and further natural resource conservation.	District actively supports and fosters partnerships.	District does not demonstrate commitment in forming relationships with other conservation groups.	District does not form relationships with other conservation groups. .
3. Holds meetings with a quorum of District board members present.	8 or more meetings.	6 or 7 meetings	5 meetings and fewer.
4. Submit complete meeting minutes from all routine, special, and committee meetings of the District Board to the District's assigned Conservation District Coordinator (CDC). Complete meeting minutes follow the guidance provided in the the Desktop Procedures (page 4).	CDC received complete minutes from all meetings.	CDC received complete minutes from some meetings.	CDC received no complete minutes from a majority of meetings.
5. Submit complete and accurate quarterly financial reports to the District's assigned CDC. Quarterly reporting includes utilizing the Fiscal Year 2026 electronic template of the <u>Attachment E (Project Financial Report)</u> , submittal of a quarterly Profit and Loss Statement, and submittal of a quarterly Cash Balance Sheet. The Attachment E submittals must be signed by the District Treasurer or a Director/Associate Director with check signing authority. Two different signatures are required.	Three or more reports were on time, complete, and accurate.	Two reports were on time, complete, and accurate.	One or fewer reports were on time, complete, and accurate.
6. <i>DCR's Desktop Procedures for District Fiscal Operations</i> (Procedures) annually reviewed by the District Board or their Finance Committee and documented in official Board meeting minutes.	A current copy of the Procedures was reviewed by the Board or Finance Committee-once during the fiscal year.	N/A	A current copy of the Procedures was not reviewed by the Board or Finance Committee during the fiscal year.
7. District staff responsible for the District's administrative functions or financial data management and financial reporting, attended trainings (i.e. Quickbooks, Accounting, Minutes, etc.) when provided by the Department.	All District staff responsible for the administrative functions or financial data and reporting attended Department sponsored training(s).	Some of the District staff responsible for the administrative functions or financial data and reporting attended some of the Department sponsored training(s).	No District staff responsible for the administrative functions or financial data and reporting attended Department sponsored training(s).

8. New directors are required to complete Director Orientation training within six months of qualifying for office.	All new directors completed Director Orientation training sessions within six months of qualifying for office	Some new directors completed Director Orientation training or training was completed but not within 6 months.	New director(s) failed to complete Director Orientation training
9. Provide data and other information needed for preparation of legislative studies and reports that pertain to programs and services delivered by Districts, as requested by the Department and/or the Virginia Soil and Water Conservation Board to support nonpoint source pollution reduction initiatives that improve water quality including information necessary to fulfill reporting specified within the Water Quality Improvement Act [§ 10.1-21.1 et seq. of the Code of Virginia], Virginia Natural Resources Commitment Fund [§ 10.1-2128.1 of the Code of Virginia], the Chesapeake Bay and Virginia Waters Clean-up Plan [§.62.1-44.118 of the Code of Virginia] and the Appropriation Act.	All Department and/or the Virginia Soil and Water Conservation Board requests for information/assistance were fully addressed.	The Department's and/or the Virginia Soil and Water Conservation Board's requests were partially addressed with shortcomings that could include incomplete information; response delays, and other factors.	No cooperation and/or assistance provided when requested by the Department and/or the Virginia Soil and Water Conservation Board.
10. Hosted at least one agricultural community outreach event during the year that: <ul style="list-style-type: none"> • Was marketed through at least one venue that directed towards producers with small farms or producers considered socially disadvantaged; • Included an introduction of District, programs, staff and directors; and • Included a discussion featuring local agricultural producers that utilized the VACS Program; • Provided notice to partners, including the Virginia State University Small Farm Outreach Program, of the event and provided an opportunity to partners to participate in the agenda 	The District hosted at least one outreach event that met all criteria.	The District hosted at least one outreach event that met some criteria.	The District failed to host an outreach event that met criteria.

*

The basis for the ratings that are scored “Partially Fulfilled” or “Did Not Fulfill” will be documented through written comments by the CDC and discussed during a meeting of the District Board and staff. Such results will be shared with the Audit Subcommittee of the Virginia Soil and Water Conservation Board for their review and consideration.

ATTACHMENT C (Evaluation Guidance for Department/District Fiscal Year 2026 Grant Agreement Performance Deliverables)

Grant Agreement Performance Deliverable	Fully Satisfied "A"	Partially Fulfilled "B"*	Did Not Fulfill "C"*
1. Did the District implement the Virginia Agricultural BMP Cost-Share program (§10.1-546.1 Code of Virginia) in accordance with the provisions of: <ul style="list-style-type: none"> • The POLICY AND PROCEDURES ON SOIL AND WATER CONSERVATION DISTRICT COST-SHARE AND TECHNICAL ASSISTANCE FUNDING ALLOCATIONS (FISCAL YEAR 2026); • This Grant Agreement; • All state laws and regulations. 	Effectively delivers the Virginia Agricultural BMP Cost-Share Program in accordance with program requirements.	Partially delivers the Virginia Agricultural BMP Cost-Share Program in accordance with program requirements.	Fails to deliver the Virginia Agricultural BMP Cost-Share Program in accordance with program requirements, with multiple deficiencies demonstrated by the District.
2. Did the District implement VACS in accordance with the <i>Program Year 2026 Virginia Agricultural Cost-Share (VACS) BMP Manual</i> , including but not limited to the provisions on approval and payment of cost-share, working within District boundaries, bid process, applying average cost list to contract estimates properly, ranking cost share applications consistently with priority and secondary considerations, taking appropriate action to address verification issues, following the appropriate procedures for any mid-year update to the Average Cost List, and other administrative guidelines established in the <i>Manual</i> .	The District complied fully with all provisions of the <i>Manual</i> .	The District was found to be out of compliance in two instances with provisions of the <i>Manual</i> .	The District was found to be out of compliance with three or more instances with provisions of the <i>Manual</i> .
3. Did District staff implementing the VACS Program obtain the DCR Conservation Planner Certification within 24 months of hire (dependent upon availability of all required courses? If the 24 month timeline is exceeded, did staff adequately demonstrate progress towards achieving certification? Did staff maintain conservation planning certification after achieving the initial certification?	Yes, District technical staff (i) have obtained certification within 24 months of hire or are actively working towards certification; or (ii) have maintained certification.	Some District technical staff (i) have failed to obtain or (ii) have failed to maintain certification.	No, District technical staff (i) have obtained certification; or (ii) have maintained certification.

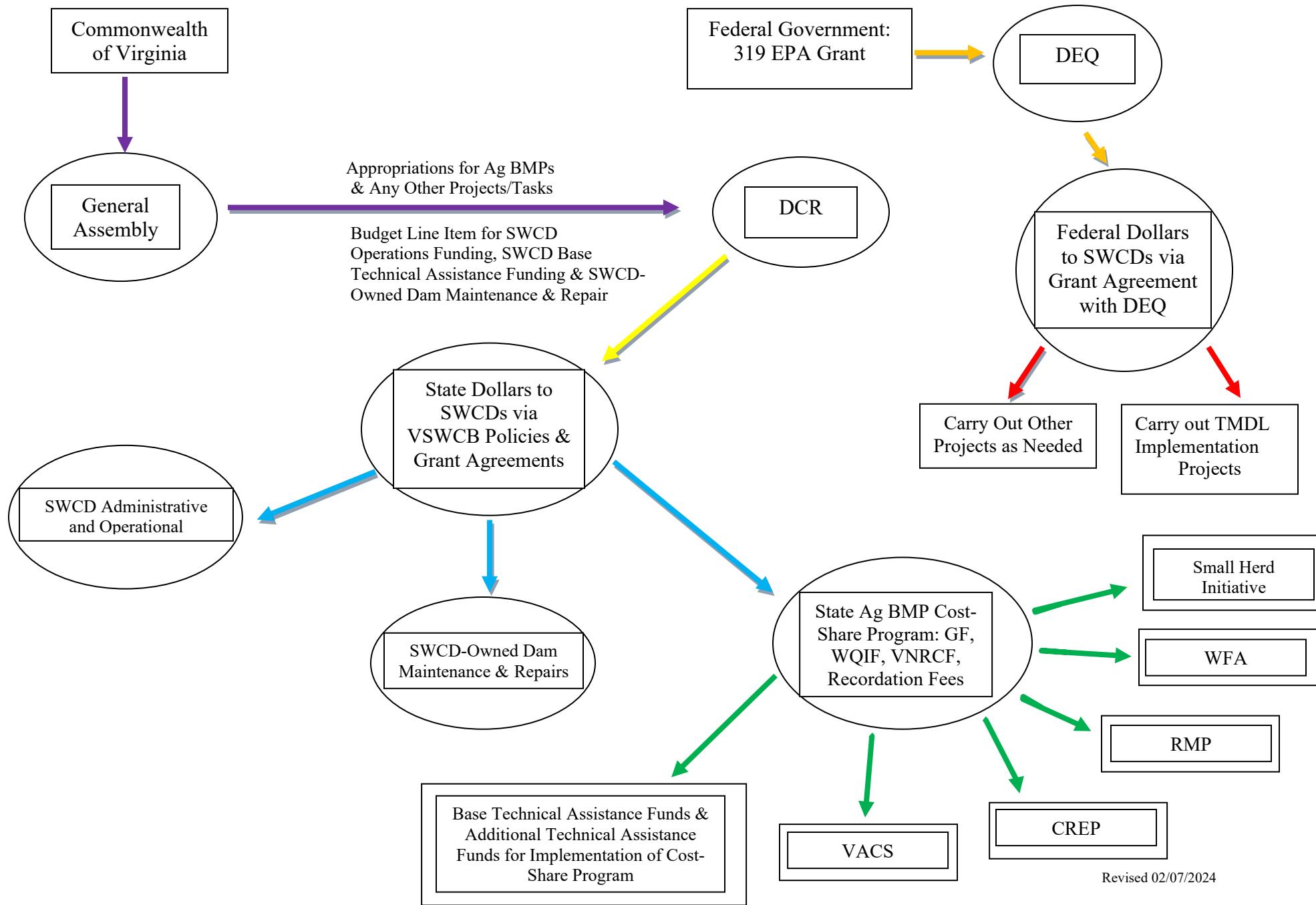
<p>4. If applicable, did District staff implementing the VACS Program obtain and maintain the appropriate level of Engineering Job Approval Authority (EJAA) for components of the BMPs installed within District boundaries. Did District staff follow EJAA requirements and applicable standards and specifications at all times?</p>	<p>Yes, District staff obtained and maintained the appropriate level of EJAA and no compliance issues were found.</p>	<p>District staff was found to be out of compliance with EJAA. Example: staff worked outside of EJAA on occasion or staff had at least one deficiency found during an EJAA review.</p>	<p>District staff was found to be out of compliance with EJAA on multiple instances or significant deficiencies were found during an EJAA review.</p>
<p>5. Prior to the District approving cost-share applications, did the District Board:</p> <ol style="list-style-type: none"> Approve secondary considerations and receive Department approval of those considerations? Approve an Average Cost List and submit it to the Department? 	<p>Prior to approving cost-share applications, (i) the District Board approved secondary considerations and received Department approval of those considerations and (ii) submitted an average cost list to the Department.</p>	<p>Prior to approving cost-share applications, (i) the District Board did not approve or did not receive Department approval of those considerations or (ii) did not submit an average cost list to the Department.</p>	<p>Prior to approving cost-share applications, (i) the District Board did not approve or did not receive Department approval of those considerations and (ii) did not submit an average cost list.</p>
<p>6. If applicable, prior to practice contract approval, was a complete and Board-approved DCR conservation plan or Resource Management Plan entered into the Conservation Application Suite or was a NRCS conservation plan, written by NRCS staff on file with the District and Board-approved? Does the plan include the practices approved by the District?</p>	<p>All practices that require a conservation plan had a complete, accurate, and Board-approved plan before the practice contract was approved.</p>	<p>A few practices that require a conservation plan did not have a complete and Board-approved plan before the practice contract was approved or the plan was lacking the appropriate practices, dates, signatures and/or resource reviews.</p>	<p>Multiple practices that require a conservation plan did not have a complete and Board-approved plan before the practice contract was approved or the plans were lacking the appropriate practices, dates, signatures and/or resource reviews.</p>

<p>7. Was data entered in the Conservation Application Suite accurately and were any data inaccuracies entered into the Conservation Application Suite corrected within 30 days from the date the District was notified of the issues or by the established deadlines? This includes but is not limited to inaccuracies that are found through the bi-monthly QA/QC reports:</p> <ul style="list-style-type: none"> i. BMP data entry: entry of a practice location point, path to stream (where required), digitized practice components to facilitate resource reviews, and accurate practice measurements including soil loss rate value based upon site specific soil type(s), ii. BMP payment status: approvals, cancellations, carryovers, complete not-paid; and participant funding request; and iii. Financial data status: payment and other financial records. 	<p>Data entered into the Conservation Application Suite was consistently accurate and all corrections were made within 30 days.</p>	<p>Data entered into the Conservation Application Suite was usually accurate but a few corrections took longer than 30 days to address.</p>	<p>Data entered into the Conservation Application Suite was routinely inaccurate and multiple corrections were not addressed within 30 days.</p>
<p>8. Did the District submit complete and accurate End of Year Cash Balance Reports, and Carry Over Reports by the End of Year reporting deadline?</p>	<p>Reports were submitted by the End of Year reporting deadline and were complete and accurate.</p>	<p>Reports were submitted after the End of Year reporting deadline but were complete and accurate or reports were submitted by the end of the year reporting deadline but were not complete or accurate.</p>	<p>Reports were submitted after the End of Year reporting deadline and were incomplete or inaccurate.</p>
<p>9. Were tax credit applications approved by the District Board and was there a corresponding District Board approved soil conservation plan on file at the District for each tax credit? Were tax credits issued after practices received technical certification and did the tax credit issue date fall in the same calendar year as the technical certification date? Was all of the required tax documentation provided to the participant?</p>	<p>All tax credit applications and tax credit procedures were handled appropriately.</p>	<p>A few tax credit applications or procedures were not handled appropriately</p>	<p>Multiple tax credit applications and procedures were not handled appropriately.</p>
<p>10. Were applications for cost-share and tax credits approved by District Board action and individually documented in their District Board minutes (identified by contract or instance #)?</p>	<p>All applications were approved by District Board action and were individually documented in minutes.</p>	<p>A few applications were not approved by District Board action or were not individually documented in the minutes.</p>	<p>Multiple applications were not approved by District Board action and were not individually documented in the minutes.</p>

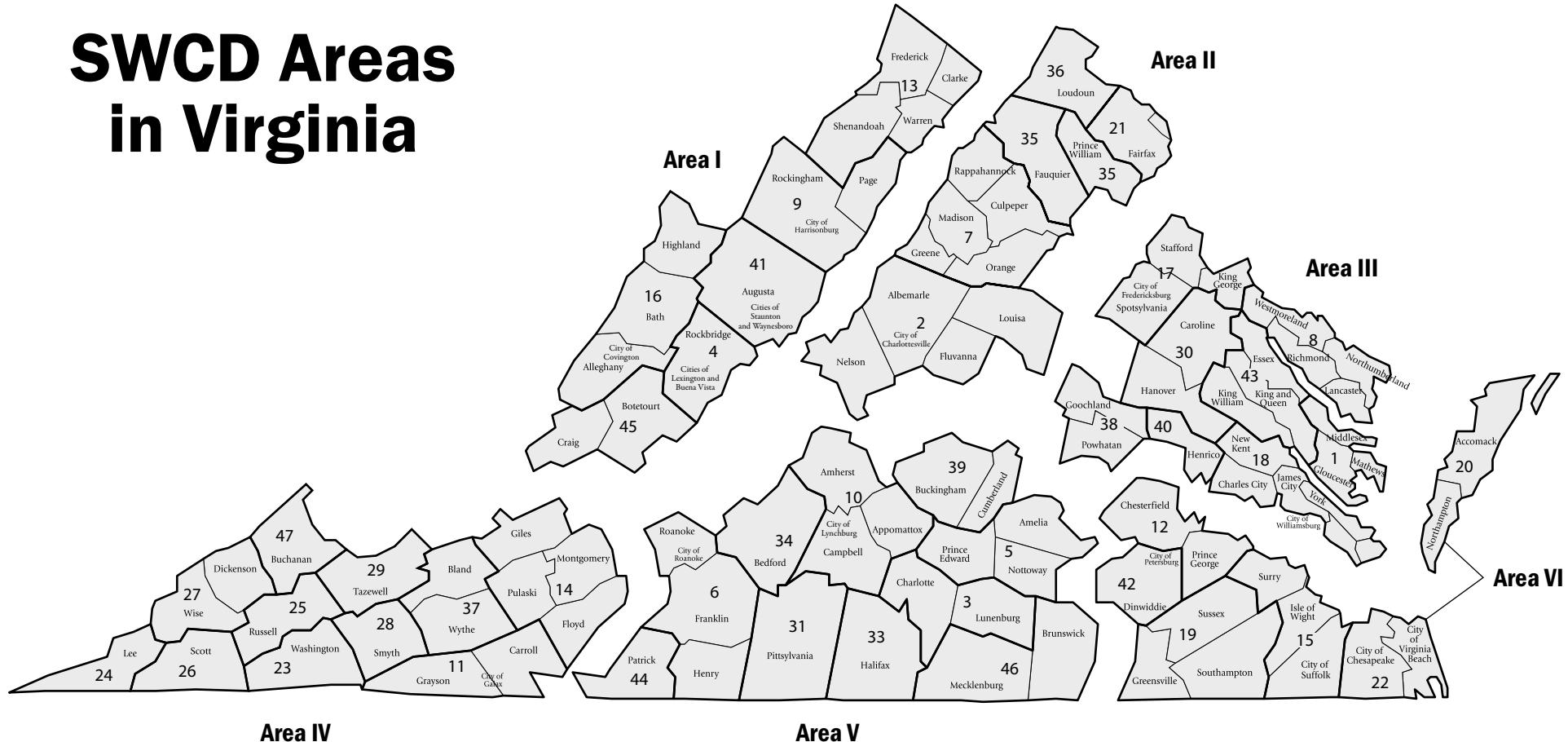
11. Did District staff participate in an annual VACS Program Update and Conservation Application Suite updates training sponsored by the Department?	All of the District technical staff participated in an annual VACS Program Update and Conservation Application Suite updates training.	Some of the District technical staff participated in an annual VACS Program Update and Conservation Application Suite updates training.	No District technical staff participated in an annual VACS Program Update and Conservation Application Suite updates training .
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Does the District have documentation to explain any measures in their Grant Agreements that were not fully met? If so, please provide to CDC.

SWCD Funding Flow Chart for Typical State & Federal Grant Agreements



SWCD Areas in Virginia



SOIL AND WATER CONSERVATION DISTRICTS (Note: Cities within SWCDs are listed in parentheses after the appropriate district.)

Area I	Area II	Area III	Area IV	Area V	Area VI
4 Natural Bridge (Buena Vista, Lexington)	2 Thomas Jefferson (Charlottesville)	1 Tidewater	11 New River (Galax)	3 Southside	12 James River
9 Shenandoah Valley (Harrisonburg)	7 Culpepper	8 Northern Neck	14 Skyline	5 Piedmont	15 Peanut (Suffolk)
13 Lord Fairfax (Winchester)	21 Northern Virginia	17 Tri-County/City (Fredericksburg)	23 Holston River	6 Blue Ridge (Roanoke)	19 Chowan Basin
16 Mountain (Covington)	32 John Marshall	18 Colonial (Williamsburg)	24 Daniel Boone	10 Robert E. Lee (Lynchburg)	20 Eastern Shore
41 Headwaters (Staunton and Waynesboro)	35 Prince William	30 Hanover-Caroline	25 Clinch Valley	31 Pittsylvania	22 Virginia Dare (Chesapeake and Virginia Beach)
45 Mountain Castles	36 Loudoun	38 Monacan	26 Scott County	33 Halifax	42 Appomattox River (Petersburg)
		40 Henricopolis	27 Lonesome Pine	34 Peaks of Otter	
		43 Three Rivers	28 Evergreen	39 Peter Francisco	
			29 Tazewell	44 Patrick	
			37 Big Walker	46 Big Sandy	
			47 Big Sandy		

Virginia Department of Conservation and Recreation
Division of Soil and Water Conservation Staff and Conservation District Coordinator Assignments

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DCR Conservation District Coordinator Territories

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Radford Office

Becky Hubble

Stacy Horton

Richmond Office

Denney Collins

Staunton Office

Tad Williams

Soil and Water Conservation Districts

Suffolk Office

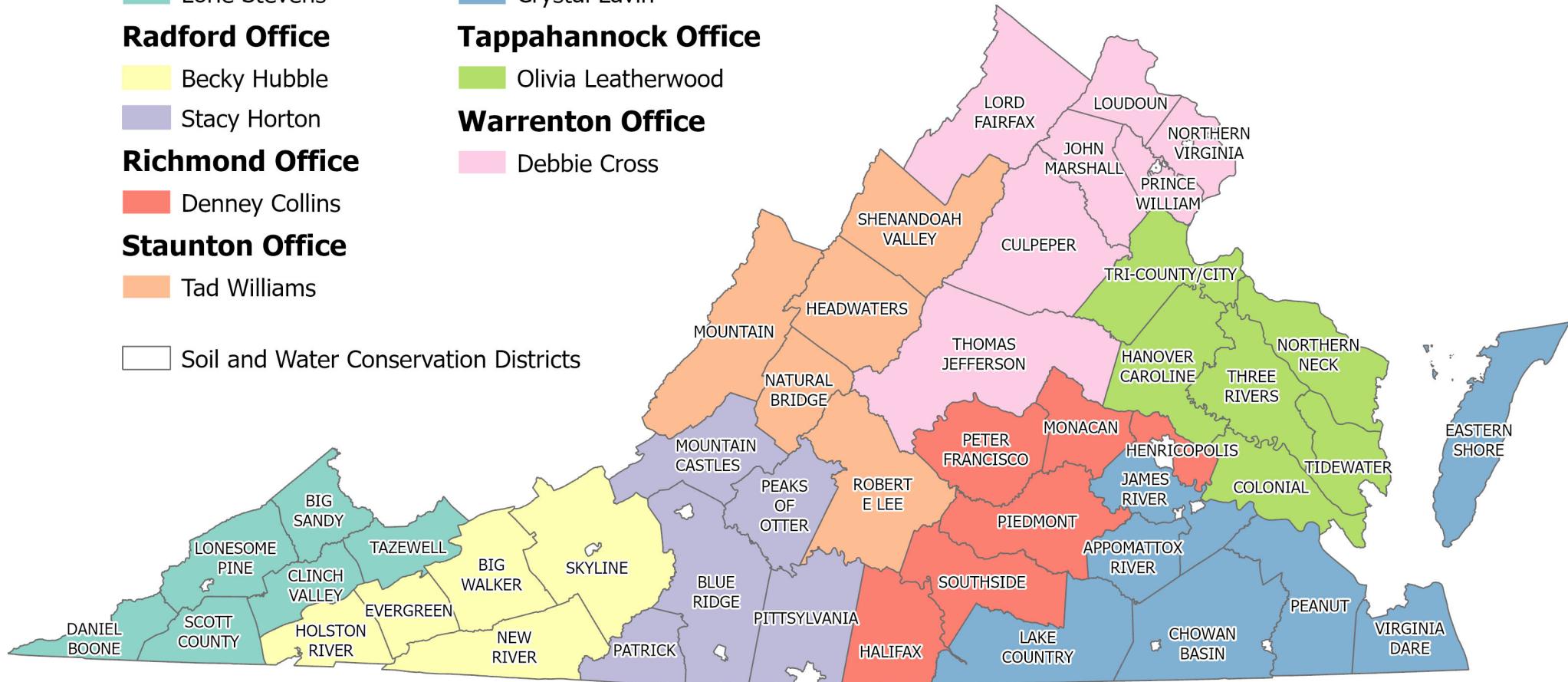
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Tappahannock Office

Olivia Leatherwood

Warrenton Office

Debbie Cross



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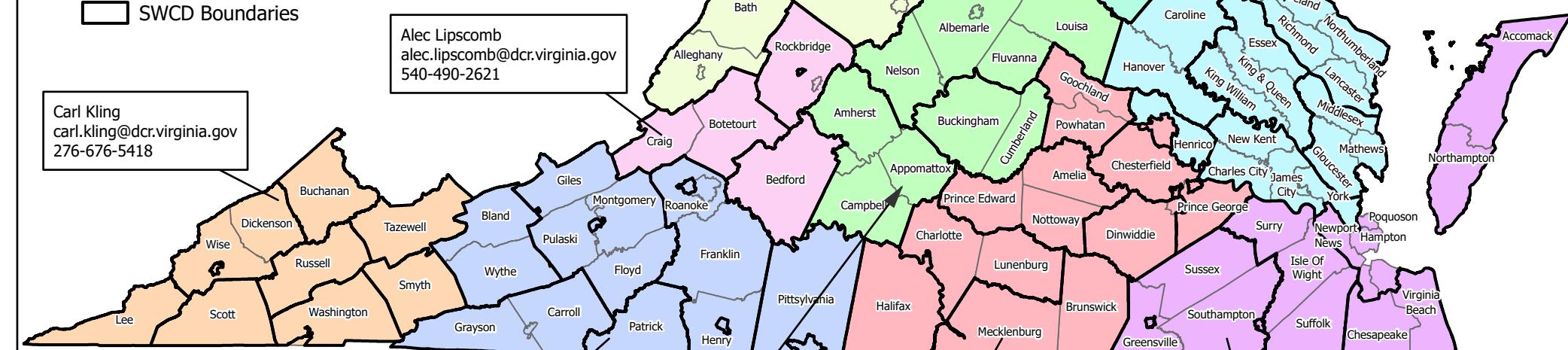
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-  Hunter Quinones
-  Carl Kling
-  Jay Marshall
-  Caroline Schrider
-  Abby Pierson
-  Marie Schirmacher
-  Rachel McAden
-  Robert Shoemaker
-  Scarlett Reel

SWCD Boundaries

SWCD Boundaries



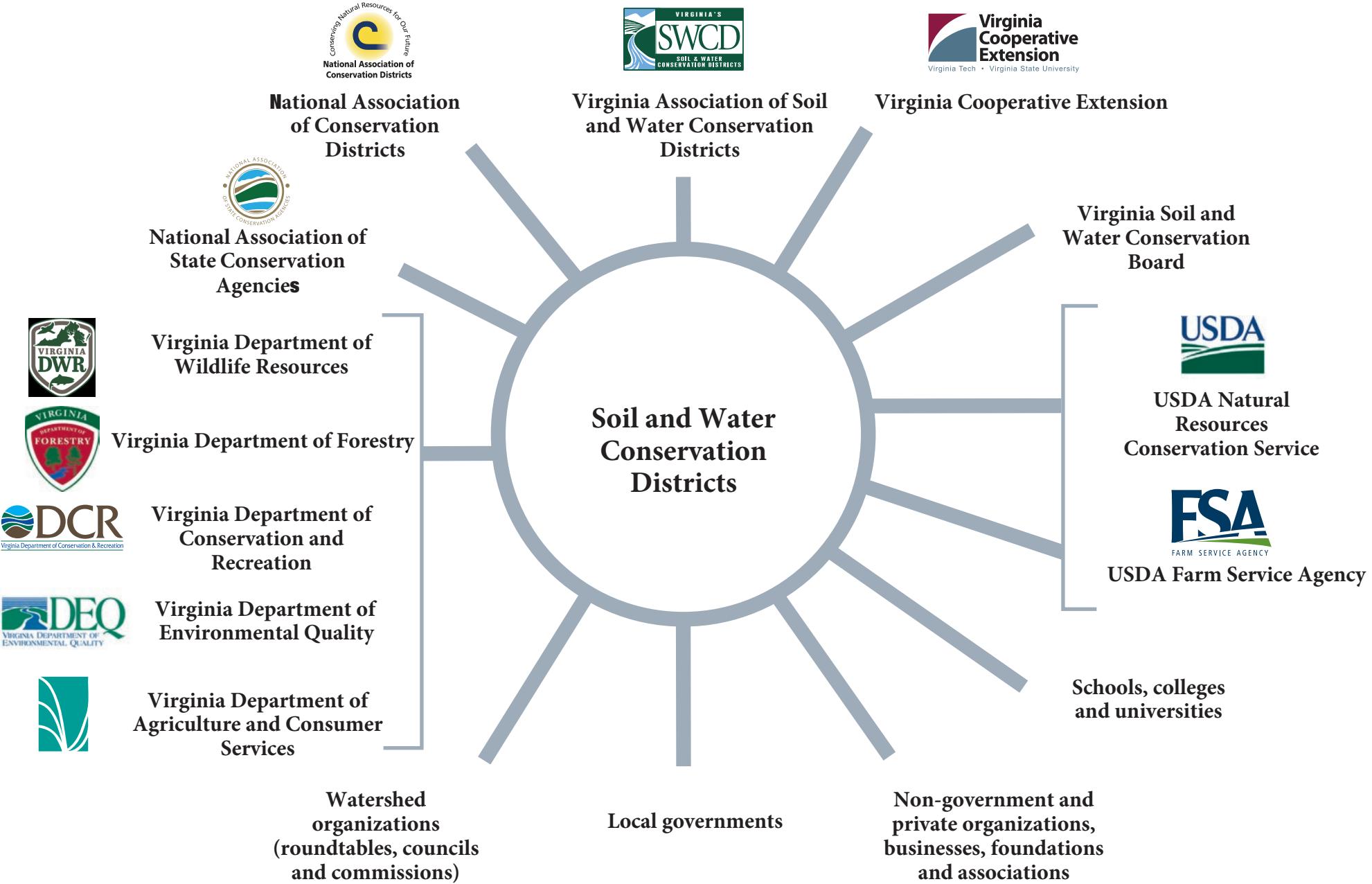
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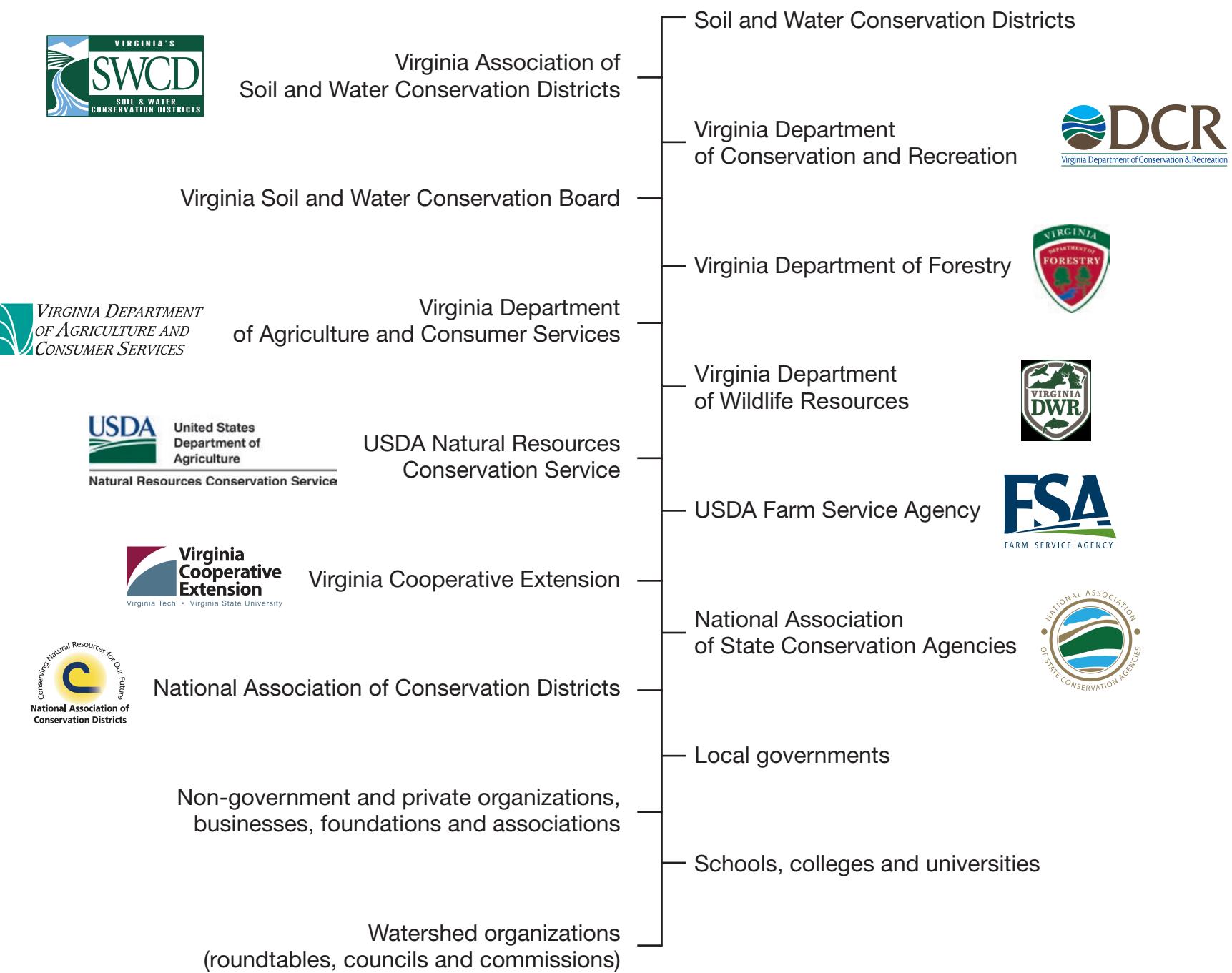
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Partners in Local Conservation



Partners in Local Conservation





Virginia Association of Soil and Water Conservation Districts
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(804) 559-0324 • Fax (804) 559-0325 • www.vaswcd.org

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Byron Minson
Education & Outreach Coordinator
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VASWCD Website: <https://vaswcd.org/>

Online District Directory: <https://vaswcd.org/district-directory/>

To communicate with district staff, directors and partners more efficiently without flooding your inbox with emails we have cleaned up our listservs.

Please utilize these instructions when adding someone to the individual listservs described below.

- **All District email list (alldistrict@vaswcd.org)**- Our broadest email listserv to stay up to date on happenings. Emails cover current district, partner, legislative and VASWCD news.
 - ❖ To sign up simply send an email message to alldistrict-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **Administrative email list (swcdadmin@vaswcd.org)**- For all district administrative assistants, bookkeepers, and district managers. Provides a networking opportunity for district staff to share questions and for VASWCD staff to contact appropriate district individuals when necessary.
 - ❖ To sign up simply send an email message to swcdadmin-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **Education email list (education@vaswcd.org)**- The education listserv is used for sharing information and updates about VASWCD Educational Programs: Poster Contest, Virginia Dominion Energy Envirothon, Youth Conservation Camp, Youth Conservation Leadership Institute, Scholarships and photo contest. Also, share upcoming trainings/workshops, share resources, and ask questions to other SWCD Educational Staff .
 - ❖ To sign up simply send an email message to education-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **Tech email list (swcdtech@vaswcd.org)**- For all district Conservation, BMP, TMDL, Technicians and Specialists. Provides a networking opportunity for district staff to share questions and for VASWCD staff to contact appropriate district individuals when necessary.
 - ❖ To sign up simply send an email message to swcdtech-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **Marketing Committee email list (marketing@vaswcd.org)** – Join the marketing committee and assist districts and the VASWCD with increasing public awareness of Virginia's Soil and Water Conservation Districts.
 - ❖ To sign up simply send an email message to marketing-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **VCAP email list (vcap@swcd.org)** - Sign up for program updates, event notifications, deadline reminders, and all topics relevant to stormwater management and the Virginia Conservation Assistance Program (VCAP).
 - ❖ To sign up simply send an email message to vcap-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.
- **Legislative Committee email list (legislativecommittee@vaswcd.org)** – Join the VASWCD Legislative committee to assist with legislative development and stay up to date on the VASWCDs legislative efforts.
 - ❖ To sign up simply send an email message to legislativecommittee-request@vaswcd.org with only the word subscribe or (unsubscribe) as the subject.

When sending an email to any listserv type the listserv email address in the TO field and that email will be sent to VASWCD staff for approval.

The Role of the Attorney General's Office in Soil & Water Conservation Districts

Assistant Attorney General assigned to Soil and Water Conservation Districts:

Darrell Kuntz, Assistant Attorney General

Office of the Attorney General, 202 North 9th Street, Richmond, VA 23219

Telephone: (804) 371-5207 E-mail: dkuntz@oag.state.va.us

Basic Roles:

- Advice for civil legal matters
- Representation in litigation

There are three statutes that address the Attorney General's Office's representation of SWCDs:

- **Va. Code § 2.2-507(A)– Legal Service in Civil Matters** (see below for additional information)

The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, **upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters** for such district directors or districts.

- **Va. Code § 10.1-501 - Duty of the Attorney General** (see below for additional information)

The Attorney General shall represent and provide consultation and legal advice in suits or actions under this chapter upon request of the district directors or districts.

- **Va. Code § 10.1-501.1- Defense of Claims** (see below for additional information)

The Attorney General shall provide the legal defense against any claim made against any soil and water conservation district, director, officer, agent or employee thereof (i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or maintained by any soil and water conservation district or used by district employees or other authorized persons in the course of their employment, or (ii) arising out of acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization.

Seeking Advice Va. Code § 2.2-507(A):

- Who may seek advice?

Soil and Water Conservation District Directors OR Soil and Water Conservation Districts

- Who may districts seek legal advice from:

(1) local, public, or private sources

(2) **upon request**, the Attorney General shall provide legal service in civil matters

- What may you seek advice about?

The business of the Soil & Water Conservation District

Representation and legal defense Va. Code § 10.1-501.1:

The District's role in litigation is limited to these things:

- You are suing
- You are being sued
- You are required to provide information for a lawsuit

The role of the Office of the Attorney General when SWCD is involved in litigation:

The Attorney General shall represent and provide consultation and legal advice in suits or actions under this chapter upon request of the district directors or districts. Va. Code § 10.1-501

Key Points for Va. Code § 10.1-501.1:

- (1) “The Attorney General **shall provide the legal defense** against any claim made against any soil and water conservation district, director, officer, agent or employee thereof . . .”
 - (a) If the claim is against any soil and water conservation district, director, officer, agent or employee thereof and it meets the limitation set forth in subparagraph (i) or (ii), the Attorney General’s Office must provide the defense
 - (b) The representation is limited to responding to lawsuits; it does not include bringing suits
- (2) There are two classes of actions this Office will defend:
 - (a) Those “(i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or maintained by any soil and water conservation district or used by district employees or other authorized persons in the course of their employment” and
 - (b) Those “(ii) arising out of acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization.”

Legal Service Va. Code § 2.2-507(A)

Upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

Key Points for Va. Code § 2.2-507(A):

- (1) It limits the services provided to civil matters
- (2) Because the term “legal services” is broad, it may include bringing suits

Attorney-Client Privilege

- The attorney-client privilege protects communications between an attorney and a client from disclosure where the communication concerns rendering legal advice.
- The communication must be made with the expectation of confidentiality.
- The privilege does not apply where the communication involves the furtherance of a crime or a tort.
- Here, the privilege does not apply where the communication does not pertain to the business of a SWCD.
- Records that are protected under the attorney-client privilege are excluded from the provisions of the Freedom of Information Act in that records protected under attorney-client privilege do not have to be released to the public (§ 2.2-3705.1(2)). Also, an open meeting may be closed to the public as per FOIA in order to discuss communications protected by the attorney-client privilege (§ 2.2-3711(A)(7)). These exclusions to FOIA remain in place until the privilege is waived.
- The privilege belongs to the client (SWCD) and can only be waived by the SWCD. Waiver occurs when the communication is disclosed to someone other than the SWCD and its attorney. Once waived, the privilege cannot be restored.

SECTION II

FULL GUIDEBOOKS

SOIL AND WATER CONSERVATION DISTRICT
DIRECTOR'S **HANDBOOK**



February 2024

Prepared by Virginia Department of Conservation and Recreation



A SPECIAL MESSAGE TO DIRECTORS

You have been selected for the important responsibility of conserving your community's soil and water resources. Both the local economy and quality of life in your community are dependent upon your good work.

Never has the challenge been greater. New demands are placed on the environment daily. Citizens insist we listen and be responsive to their needs. Your efforts and actions directly affect generations of Virginians now and in the future.

A district director has the responsibility to weigh, balance and act upon important conservation issues. The job is complex, stimulating and difficult. We ask that you step forward as a conservation leader and exert a powerful, but tempered, influence on natural resource management in your community, giving full consideration to the citizens you represent.

The goal of this handbook is to hasten your ability to effectively fulfill your role as a director, and to enable you to grow within that role. The handbook provides basic information and background in many conservation programs. It reviews prominent issues, roles, agencies and programs. Please keep it accessible and use it as a reference.

On behalf of the leadership of your conservation partners, we extend our appreciation and thanks to every SWCD director!



Virginia Department of Conservation & Recreation



MILESTONES AFFECTING SWCDS

1933 – Soil Erosion Service (SES) established within U.S. Department of Interior (Eventually moved to U.S. Department of Agriculture).

1935 – Congress passed Public Law 46, the Soil Conservation Act, SES endorsed as federal agency, resulting in name change to Soil Conservation Service (SCS) and moved to U.S. Department of Agriculture.

1937 – President Roosevelt urged the creation of districts by state law.

1938 – Virginia passed Soil Conservation District Law; the first Virginia SWCD organized in Tidewater.

1940 – State Association of Conservation Districts (now the Virginia Association of Soil and Water Conservation Districts) formed.

1952 – First aerial photo-based soil survey map published in the United States, Culpeper County.

1966 – All counties (except Arlington) encompassed in SWCDs with formation of the John Marshall SWCD.

1972 – Clean Water Act passed by U.S. Congress.

1973 – Virginia General Assembly passes Virginia Erosion and Sediment Control Law.

1975 – Highest watershed dam in the eastern United States built on Lower North River in Rockingham County.

1978 – Chesapeake Bay Program initiated with extensive research on nonpoint source (NPS) pollution.

1980 – Shoreline Erosion Advisory Service began.

1983 – Virginia General Assembly funds the first Chesapeake Bay NPS clean-up initiatives.

1985 – Virginia Soil and Water Conservation Commission merged with state agencies and evolved into the present-day Virginia Department of Conservation and Recreation (DCR).

1985 – USDA Food Security Act (Farm Bill) ties continued farming of highly erodible lands to certain program benefits causing significant changes in conservation and the work of the SCS.

1987 – Clean Water Act is amended to fund NPS pollution (runoff).

1989 – Chesapeake Bay Preservation Act; EPA study reveals NPS pollution is dominant form of water pollution; EPA approves Virginia's NPS Management Program.

1990 – Virginia General Assembly passes Stormwater Management Law.

1992 – Watershed concepts are implemented in Virginia for NPS control.

1995 – USDA reorganization. SCS becomes Natural Resources Conservation Service (NRCS).

1996 – Virginia General Assembly established a process for addressing complaints of NPS from farm operations (Agricultural Stewardship Act).

1997 – Virginia Water Quality Improvement Act (WQIA) is established to restore and improve the quality of state waters and protect them from impairment and destruction.

2004 – Virginia General Assembly clarifies the water quality role of SWCDs in state law: The Department of Conservation and Recreation shall be assisted in performing its nonpoint source pollution management responsibilities by Virginia's soil and water conservation districts.

2011 – Virginia General Assembly established the Virginia Natural Resources Commitment Fund “solely for the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department of Conservation and Recreation”.

2013 – Virginia General Assembly amended the duties of the Virginia Soil and Water Conservation Board to include “[t]o oversee the programs of the districts”.

2014 – Resource Management Plan review and approval responsibilities began in 2014 upon the effective date of the RMP regulations.

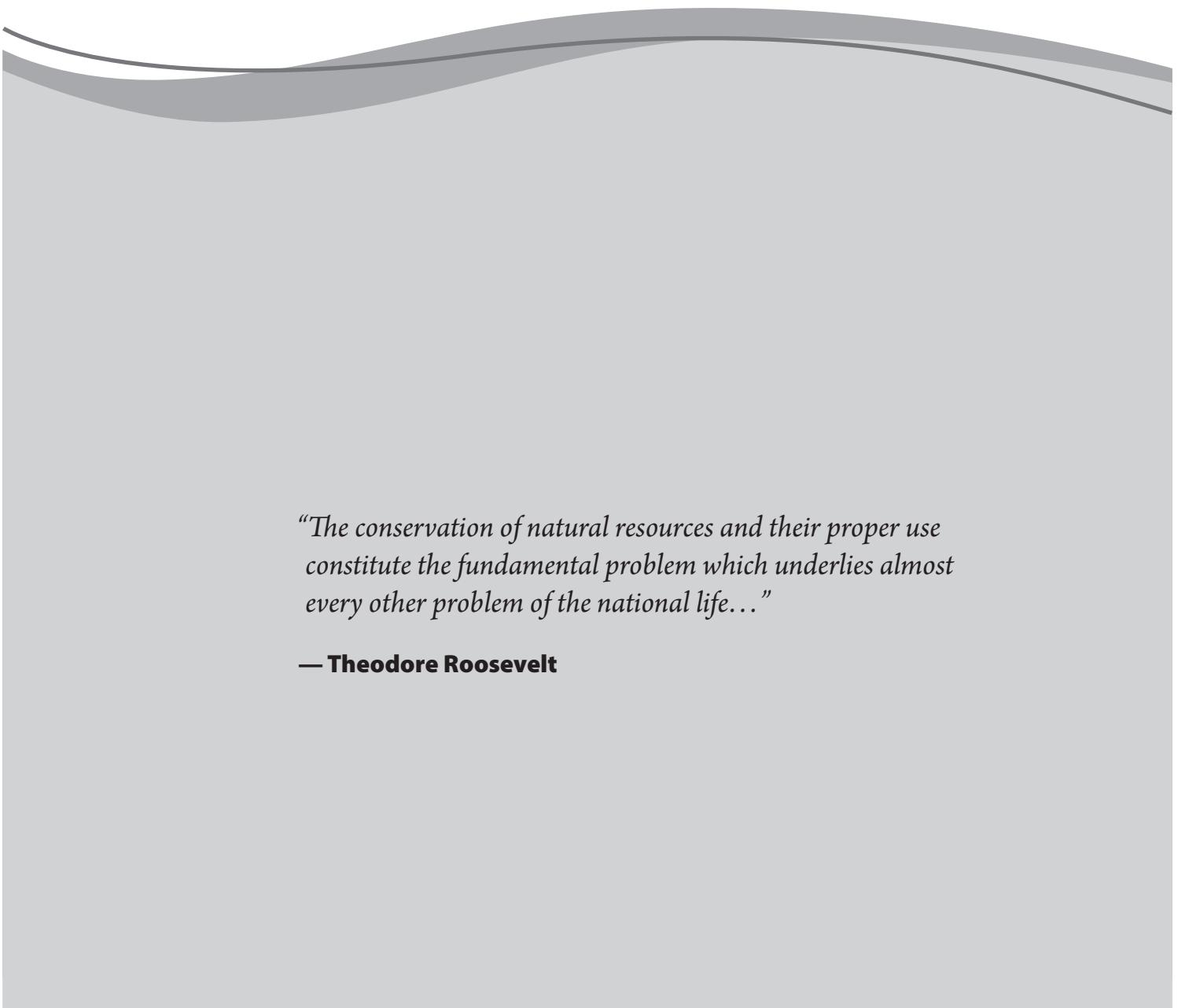
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CONSERVATION DISTRICTS



“The conservation of natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of the national life...”

— **Theodore Roosevelt**

SWCD MAKEUP AND PURPOSE

In 1935, the U.S. Congress declared soil and water conservation and wise land use a national policy through the passage of Public Law 46. This action was prompted by a growing public concern for the poor condition of the nation's natural resources. In 1937, President Franklin Delano Roosevelt wrote to the governors of each state recommending state legislation to form soil and water conservation districts. Within a year, Virginia's Soil Conservation District Law was passed. This legislation was an effort to provide local citizens the opportunity to shape soil and water conservation and resource planning in their communities.

Today, there are 47 soil and water conservation districts in Virginia. The districts are directed by boards composed of:

- Locally elected directors

If a district encompasses only one county or one city, there are three elected directors.

If more than one county or city is represented, there are two elected directors for each entity.

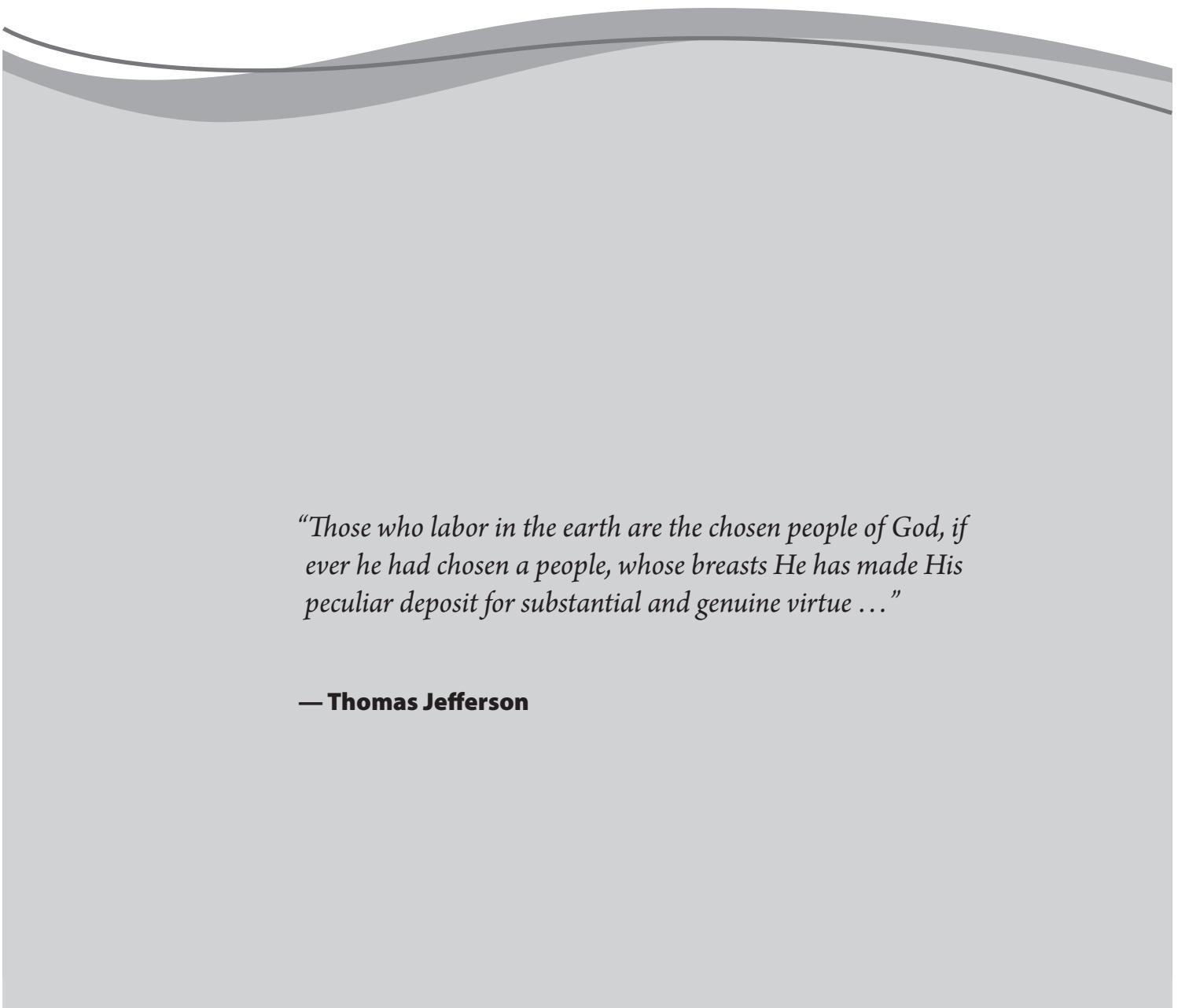
- An extension agent appointed by the Virginia Soil and Water Conservation Board (VSWCB) upon recommendation of the Virginia Cooperative Extension State Program Leader for Agriculture and Natural Resources and after consultation between VCE and the local district.
- An at-large director, recommended by local SWCDs and appointed by the VSWCB.

In Virginia, district boards range in size from five to 12 director members. These directors are empowered by state law to fulfill many responsibilities related to the management of soil and water resources and the conservation of natural resources. To achieve their missions, they may receive technical and limited financial assistance from cooperating local, state and federal sources such as local government, the Virginia Department of Conservation and Recreation, Virginia Department of Environmental Quality, USDA Natural Resources Conservation Service, Virginia Cooperative Extension and others.

Cooperation by districts with other organizations focuses on issues such as:

- Water quality and control of nonpoint source (NPS) pollution.
- Soil erosion control and prevention.
- Development and land-use patterns.
- Prevention of flood water and sediment damage.
- Watershed management to control and reduce NPS.
- Preservation of wildlife.
- Conservation planning for multiple natural resources on private and public lands.
- Soil survey and database development through the Virginia Cooperative Soil Survey program.

DISTRICT DIRECTORS



“Those who labor in the earth are the chosen people of God, if ever he had chosen a people, whose breasts He has made His peculiar deposit for substantial and genuine virtue …”

— **Thomas Jefferson**

DIRECTORS

District directors are local citizens elected or appointed to a four-year term of office. They serve as the legislatively mandated voice for local natural resource concerns. For several decades, directors were typically local landowners. However as the scope of conservation has grown, so has the diversity of board members, lending broader perspective to the district's positions. Today, district boards are made up of bankers, teachers, homemakers, farmers, educators and business owners. They represent a variety of local environmental concerns.

JOB DESCRIPTION

Directors are not public employees and receive no salary. However, they may receive reimbursement for expenses, including travel expenses that are incurred in the performance of their duties. They voluntarily assess local conservation needs and encourage cooperative efforts in achieving district conservation goals. Directors should attend the regular monthly board meetings and ensure a quorum is present at every meeting. Each district should develop a job description clarifying director roles and responsibilities to be used when recruiting new directors. The following requirements should be considered when developing the director's job description.

MANDATORY REQUIREMENTS

Duties of district directors §10.1-529.1
(Code of Virginia)

In addition to other duties and powers, district directors shall:

1. Identify soil and water issues and opportunities within the district or related to the district and establish priorities for addressing these issues.
2. Seek a comprehensive understanding of the complex issues that impact soil and water, and assist in resolving the identified issues at the watershed, local, regional, state and national levels.
3. Engage in actions that will improve soil and water stewardship by use of locally led programs.
4. Increase understanding among community leaders, including elected officials and others, of their role in soil and water quality protection and improvement.
5. Foster discussion and advancement within the community of positions and programs by their district.
6. Actively participate in the activities of the district and ensure district resources are used effectively and managed wisely.
7. Support and promote the advancement of districts and their capabilities.

ADDITIONAL RESPONSIBILITIES

- Identify local conservation needs.
- Represent local citizens in conservation issues.
- Educate others about conservation issues and programs.
- Work effectively with local, state and federal agencies to resolve conservation problems.
- Attend regularly scheduled board meetings, and meetings of partner organizations.
- Serve on standing and ad hoc district committees and ensure quorum at such meetings.
- Recognize and act upon natural resource management needs.
- Establish district policies and develop programs to meet those needs.
- Promote the district as a reliable source of natural resource information and policy.
- Help district citizens resolve problems related to soil and water conservation.
- Provide guidance and direction to employees of the district for the efficient operation of the district office.
- Provide financial direction by taking responsibility for the proper expenditure and management of public funds; review monthly and annual financial statements; maintain a working knowledge of the budgetary process, and approach local boards of supervisors/city council when requesting county or city public funds.
- Develop and maintain a progressive public information and education program to keep citizens informed about conservation issues and programs.
- If appointed by the Chair, serve on the district's personnel committee and participate in aspects of district personnel management which may include hiring; conducting staff personnel reviews; and developing and maintaining fair personnel policies.
- Cultivate and recruit potential directors and associate directors.
- Maintain adherence to the policies of the Virginia Soil and Water Conservation Board.
- Acquire and enhance the skills essential to effective directors to include leadership capabilities, personnel management, public speaking, negotiation, fiscal management and environmental policies.

TRAINING REQUIREMENTS

Each new director is expected to:

- Participate in orientation training sessions as provided by DCR within six months of taking the oath of office.

All directors must:

- Meet training requirements as set forth by the district, grant agreements with DCR or policy of the VSWCB and Code of Virginia.
- Pursuant to §2.2-3704.3 and §2.2-3100 of the Code of Virginia, each district elected director is required to complete Freedom of Information Act training and Conflict of Interests Act training for Locally Elected Officials within two months of assuming office and every two years thereafter.

FAILURE TO MEET REQUIREMENTS

As an elected official, directors are required to take an oath of office and make a personal commitment to fulfill the responsibilities of the position. On occasion, a director may fail to meet the criteria established for the office. In this case, fellow directors should consult with the individual to determine a cause for the shortcoming(s) and attempt to develop a plan to remedy the situation. The board should make an effort to motivate the official and address the unsatisfactory behavior at the district level. If the behavior does not improve through discussion and encouragement to a satisfactory level, the directors may proceed through a more formal process to seek the removal of the district director. This course of action is addressed through state law. (§10.1-536. Removal from office)

TECHNICAL REQUIREMENTS

- Develop a thorough knowledge of conservation needs in the areas of soil, water and other natural resources.
- Develop a working knowledge of environmental sciences, agriculture, engineering, local, state and national legislative processes, and parliamentary procedures.

ROLES AND RESPONSIBILITIES



*“The history of every nation is eventually written
in the way it cares for its soil.”*

— **Franklin D. Roosevelt**

PLANNING

As with any sound organization, planning is essential for deciding future courses of action. Planning processes occur at many levels of the organization of districts and for varying lengths of time. Annual plans specify what a district aims to accomplish during a calendar or fiscal year. A longer-term four-year plan is developed using a facilitated strategic planning approach with stakeholder input and is designed to align closely with the district director election cycle. The plan guides a district's actions over a four-year period and must be reviewed annually during a board meeting.

In multi-year planning, directors and staff invite key district clients to participate in a planning event. The plan prepares a district to ready itself for the future, to accomplish change and to be proactive. Annual plans provide the year-to-year incremental basis for achieving goals of a district's longer-term plan.

INFORMATION AND EDUCATION

Conservation districts encourage voluntary cooperation of landowners and the general public through information and education. Persuading landowners to adopt conservation values and practices begins with the process of instilling awareness and building conservation messages through information and education.

The broader public must be reached for people to understand their stake in conservation and to contribute their financial, political and volunteer support to district programs. Local, state and federal legislators must also be informed about conservation implications of issues and decisions.

To have effective informational and educational programs, directors should understand their clients and the most appropriate methods to reach them. Each type of client must be recognized and addressed according to their particular needs. This "marketing" approach to helping district constituents is essential to involving citizens.

Directors should integrate public relations into each conservation program and be aware of how the media can communicate a message.

General Public

District directors work with many adult audiences, including landowners, land managers, community leaders, civic clubs and cooperating agency personnel. Speaking to local civic organizations is one of the most effective ways to advance conservation actions. Audience learning styles usually change with age. Adults have more life experiences, want educational experiences to be applicable to their present needs and expect teachers to be sensitive to their particular questions. Adults also have the freedom to decide whether or not to participate and whether or not to be supportive. Here are a few methods to consider for adult education:

- Personal contact
- Community meetings
- Newsletters
- Field days and open houses
- Demonstration plots
- Presentations

- Invitations to district board meetings
- Annual meetings
- Legislative breakfasts
- Workshops, conferences and panel discussions
- Social media outlets

Legislators

Legislators are a unique audience. District programs are often directly affected by local, state or federal laws. The Virginia Association of Soil and Water Conservation Districts (VASWCD) and the National Association of Conservation Districts (NACD) are the principal legislative arms for conservation districts. Therefore, directors should work through the VASWCD and NACD on district legislative concerns.

Youth

A major goal in conservation education is to heighten awareness and enrich conservation values. Youth are one of the most fertile grounds for enriching the general public's conservation values. To be most effective, think about the age and environment of the youth group and present information for the appropriate level. For example: teens vs. kindergartners; agricultural vs. urban. Consider these methods:

- Develop conservation programs and projects that can involve youth.
- Sponsor youth to attend annual Youth Conservation Camp or create a local "Youth Conservation Day Camp."

- Train teachers and youth group leaders in conservation and support the Envirothon Program.
- Provide educational materials for conservation components of youth group programs.
- Consider youth group leaders as associate members of the district board.
- Provide youth conservation education scholarships through VASWCD Educational Foundation.
- Seek sponsors for awards and other conservation programs for youth.
- Encourage youth groups to implement conservation plans on youth group facilities and property.
- Coordinate with local schools to host youth-oriented field days that are focused on grade-specific standards of learning.

VASWCD and NACD have a variety of ready-made educational materials for working with youth. There are also materials developed and promoted by other groups, agencies and organizations such as Envirothon, Project Learning Tree, Project Wet and Project Wild, Master Gardeners and Agriculture in the Classroom (AITC), which provide adult instructors with ready-made, fun conservation training modules.

PUBLIC RELATIONS

Public relations by members of a district is a continuous process of building understanding among people concerning what a conservation district is, what it does and why it is important. A good public relations program will:

- Inform the public about the conservation district and its purpose.
- Promote favorable recognition of the district.
- Ensure that potential cooperators are aware of the availability of district assistance.
- Build rapport with other groups.
- Increase the amount of funding districts receive.
- Increase the quality and amount of assistance the district obtains from cooperating state and federal agencies.
- Improve local corporations, foundations, counties, cities and the quality of people who serve as conservation district directors or on district committees.

A director or committee on each board should take the lead for district public relations.

An annual "PR" strategy should be developed and followed. Each district should set goals that permeate all aspects of the district's plans and programs.

Consistent information is a vital key to good public relations. Written, graphic, verbal and non-verbal aspects of the programs must be consistent to create credibility, recognition and have the desired impact. Here are a few key points to a positive public relations program:

- Directors should represent the board in person if possible; sending a staff person is rarely as effective.
- Sometimes it's the little things that people remember. Details are important. A couple of examples include a personal letter or phone call from a director to the new county supervisor or handwritten thank you notes for financial contributions. Actions as small as these can prove very effective in building rapport.
- Always follow through on commitments.
- Recognize and appreciate cultural differences.

Give recognition to agencies, associations and other groups for their support. They'll be more eager to support you again if they are recognized for their efforts.

WORKING WITH THE MEDIA

Whether your district is engaging in information, education, public relations or all three, you will use a wide range of media:

- Personal telephone or conference calls
- Personal letters
- Direct mail to target specific audiences
- Interview shows
- Free public service messages
- Columns or regular features in newspapers, magazines or newsletters
- Films, movies and videos
- Website/Facebook
- Events such as Soil Stewardship Week, (Virginia) Natural Resource Conservation week, NACD Conservation Education Awards Program and others
- Displays, shows and fairs
- Field demonstrations (with signs)
- Newsletters and annual reports
- Press coverage of meetings
- Public service announcements (PSAs) on radio and TV (including cable)
- Press releases to newspapers and magazines
- Calendar listings
- Brochures, handouts and mailers
- Social media outlets
- Photos or other artwork, posters and banners

It is important to establish friendly, mutually helpful relationships with media representatives. Work to persuade them of the importance of your district programs and they can be an advocate to the public. A media relations committee for the district may be developed to decide:

- Which issues or programs should be promoted;
- Primary audiences for particular issues and interests; and
- The most effective media type for reaching target audiences.

HUMAN RESOURCES

People are a conservation district's primary resource. Part of the responsibility of a district director is to offer guidance and foster good relationships among directors, associate directors, district staff, committee members, volunteers and partners.

Associate Directors

Associate Directors are appointed by the district board and are advisers and representatives of particular interests that are critical to the district they serve. They may have varied backgrounds but the common link should be a concern for natural resource conservation. Associate directors don't vote on board decisions but augment the knowledge and experience of directors. Many boards have developed terms of office for associate directors. Associate Directors are encouraged to serve on district committees and attend monthly board meetings. Because their experience and knowledge are valuable to the board, it is wise to provide them the same initial orientation as a director and involve them in the work of the district as much as possible. They may also receive reimbursement for travel-related expenditures.

Personnel

There is flexibility in the structure of each district's personnel because of the varying needs of districts and their boards. However, the combination of employees should result in a smoothly implemented conservation program with effective policies. Board member roles versus staff roles should be very well defined. A general rule of thumb is that the

board sets policy and the staff implements it. When staff assumes a policy-making role, the board of directors can lose credibility in the community.

Many of the policies governing staff are established in the Personnel Policy created and approved by each District Board. The Personnel Policy should include specific items such as:

- Definitions of employees and status
- Work hours, holidays, leave, emergency closure procedures
- Benefits description
- Reimbursement and procurement procedures
- Grievance procedures
- Probationary, resignation and termination information
- Statements of compliance with nondiscrimination and fair labor act/laws and FMLA requirements
- Additional information as approved by the District Board

The personnel policy should be reviewed and approved annually.

Staffing

It is the board's role to identify needs and develop a support staff to address those needs. Staff positions may include, but are not limited to:

- **District Manager/Executive Director** – a leadership role as the supervisory staff person; mediates district problems; works with cooperating agencies to gather information for planning efforts; assists with staff recruitment and may supervise other district employees; primary representative and point of contact (other than Board officers) for the District.
- **Administrative Secretary/Assistant** – initial contact for callers to the district; assists in the preparation of written materials including correspondence, agendas, minutes, plans, reports, newsletters and news releases; performs clerical work; maintains district files; assists directors with fiscal management.
- **Secretary-Treasurer** – maintains all accounting records; prepares financial and budget reports; assists in the preparation of correspondence, agendas and minutes. Approval of the VSWCB is required if a district wants to appoint an employee as secretary/treasurer. (Code of VA § 10.1-532)
- **Conservation Specialist/Technician** – administers DCR's Virginia Agricultural Best Management Practices Cost-Share and Tax Credit Program (VACS), the state's portion of the Conservation Reserve Enhancement Program (CREP) and certain BMP loan program functions; designs and lays out BMPs; manages the SWCD's equipment program; reviews erosion and sediment control plans; assists with local watershed planning and with the district's role will SWCD owned dams, and other NPS prevention activities; provides nutrient management, resource management and related advice to landowners.
- **TMDL Agricultural Specialist and Urban or Residential Specialist** – administers DEQ's Total Maximum Daily Load (TMDL) agricultural and residential cost-share program. These positions are funded through special funding sources including federal EPA 319 grant funds and special state appropriations.
- **Information/Education Specialist** – assists with all aspects of information, education and public relations; writes newsletter and newspaper articles; prepares radio and TV coverage; and works with cooperating agencies in planning and conducting tours, demonstrations, youth programs and related activities.

In addition to the paid staff employed by a district, needs may arise for contractual services that may be met through independent consultants. The work performed may be due to a short-term need or to provide expertise in a specialized area such as developing an environmental display. Consultants are not true district employees but rather work on a contractual, as needed basis.

Position Description/ Performance Expectation

Position descriptions should be developed for all district employees to include all roles and responsibilities, performance expectations, qualifications, benefits and salary. A position description may combine tasks typically associated with more than one job title if there is not a full-time need in one area (for example, Conservation Technician/Equipment Manager).

Performance expectations are statements that capture the quantity, quality and timeliness of activities performed by staff. They are developed annually and provide a basis for measuring and evaluating the work by district employees.

The District Board approves position descriptions and performance expectations for each district staff member. The position descriptions and performance expectations should be reviewed and approved annually.

Hiring

The board, and district manager where appropriate, should help determine the district's staffing needs and agree on candidate(s) before hiring. Recruitment and selection of new employees require knowledge of fair employee practices. There must be continuity between the position description, advertisement, application screening criteria, interview questions and reasons for selection. Choosing an effective combination of staff and compensating them appropriately can multiply the efforts of the board many times over. The following should be considered in developing an employee compensation package:

- Salary
- Professional development opportunities
- Fringe Benefits: Health insurance, Dental Insurance, etc.
- Leave: annual/vacation, sick, etc.
- Paid holidays
- Retirement

The district must also be aware of legally required employee programs, such as:

- Social Security
- Unemployment insurance
- Workman's compensation
- Civil rights laws
- State and federal income tax
- Affordable Care Act
- Americans with Disabilities Act
- Fair Labor Standards Act
- Family and Medical Leave Act
- Equal Employment Opportunity

New employees should receive orientation and training to:

- Explain specific district policies, including a review of the District's personnel policy.
- Assure a mutual understanding between the board and staff as to roles and responsibilities of each.
- Strengthen their understanding of conservation issues.

- Communicate their precise job duties formalized in a position description and performance expectations, as determined by the board.
- Be provided a copy of DCR's Operations and NPS (Cost-Share) Grant Agreements to gain an understanding of District and DCR deliverables.
- Receive and review the SWCD Employee Checklist.

Districts are encouraged to identify one district director as a contact director (usually the personnel committee or Board chair) who should serve as the liaison between the staff and the board. The contact should:

- Maintain a keen awareness of employee concerns.
- Initiate evaluations and salary increases (evaluations should occur at least once each fiscal year).
- Oversee any personnel actions.
- Develop and implement an employee individual development plan.

VOLUNTEERS

In many ways, supervising volunteers is similar to supervising employees. The first step is to clearly define the tasks to be performed by one or more volunteers. Establishing position descriptions for volunteers clarifies their roles and enables greater focus on district needs. A position description can also be a written agreement, legally protecting the volunteer and the district. Once the district needs and the functions of volunteers have been defined, the next step is to develop programs for the recruitment, orientation, training and evaluation of those that volunteer their time and expertise. Districts are encouraged to designate someone to serve as the district's volunteer coordinator to oversee all volunteer efforts.

Developing volunteer support is an important mechanism for broadening the district's sphere of influence and ultimately achieving district conservation goals. In recruitment efforts, directors should seek citizens with areas of expertise not represented on the existing board.

Volunteers have individual motivations for contributing to district initiatives such as self-expression or philanthropy. In order to maximize volunteer efforts, these motivations must be realized and fulfilled. Volunteers may be motivated and encouraged by:

- Being allowed to help shape district plans and programs.
- Seeing positive results from their efforts.
- Realizing their efforts are appreciated.
- Being entrusted with increased responsibilities.
- Being recognized for their contributions with awards and letters of commendation.
- Having good working conditions and a pleasant working environment.
- Receiving reimbursement for appropriate expenses.

ADMINISTRATION



“Perhaps the most serious obstacle impeding the evolution of a land ethic is the fact that our educational and economic system is headed away from, rather than toward, and intense consciousness of the land. Your true mode is separated from the land by many middlemen, and by innumerable physical gadgets.”

— **Aldo Leopold**

ADMINISTRATIVE STRUCTURE

Conservation district administration is led by board officers and carried out through committees.

OFFICERS

- **Chair** – Must be an elected or appointed member of the district board. The chair sets the meeting agenda, appoints committees and assigns their responsibilities, and orients new directors. The chair may entertain a motion. Robert's Rules of Order provides for the chair to vote if he/she wants; however, it is good practice for the chair to abstain from participating in debate and voting unless the chair feels a responsibility to take a position or to break a tie vote.
- **Vice Chair** – acts in place of the chair when needed and advises the chair on programs and policies; arranges special programs for regular board meetings.
- **Secretary** – notifies members of each meeting; provides the chair a list of business items for the agenda; signs board meeting minutes and records of committees; transmits correspondence on behalf of the board; prepares district reports for review by the board; ensures that all forms of communication are documented in accordance with pertinent policies.
- **Treasurer** – oversees the district finances and usually serves as chair of the finance committee; leads budget development; receives deposits and disburses funds; keeps complete financial records; contributes to the development of the district fund raising plan; presents financial statements at meetings.

Many districts combine the responsibilities of Secretary and Treasurer into one position as Secretary/Treasurer. In situations where the district wishes for the Secretary/Treasurer to be a staff member, the VSWCB must approve the appointment. When responsibilities are combined, it is recommended that a second individual other than the preparer review, initial, and date the bank reconciliations, invoices etc.

COMMITTEES

Committees study and conduct business in a specific area, such as finance, personnel and legislative. They implement and monitor decisions made by the board, gather support from organizations and agencies, and are an excellent training ground for those who may eventually become district directors. Committee meetings are required to be recorded in minutes. There are two basic types of district committees:

- **Standing Committee** – a permanent committee charged with developing one basic aspect of the district. Typical standing committees include but are not limited to finance, personnel, technical, public relations and education.
- **Ad-Hoc** – a short-term committee charged with a specific task. Examples of tasks might include legislative issues, elections, awards and grant solicitation

Committee meetings are considered open meetings and subject to the requirements of the Virginia Freedom of Information Act (FOIA). Minutes should include attendance and actions recorded.

MEETINGS

Monthly board meetings are held to share information and ideas, hear from constituents, develop district policies, direct activities, and monitor implementation of programs. As public bodies, districts are bound by requirements of the Virginia Freedom of Information Act (FOIA). District board meetings and all committee meetings are open to the public, unless there is a specific exception permitted by the Virginia FOIA. Even then, the board must carefully follow statutory procedure for closing a meeting. Directors participate in meetings of committees, district associations and representative groups. In order to maximize meeting productivity:

- Participants should be notified at least one week prior to the meeting and should be provided a complete agenda. Participants should be prepared to discuss the business at hand.
- Arrangements for the meeting should include: a comfortable room, reasonable accommodation for individuals with disabilities, parking, appropriate seating arrangements for participants and audience, and audio-visual resources.
- The chair should ensure that all views are presented and disallow time-consuming repetition or undirected dialogue.
- Participants should be familiar with parliamentary procedure or Roberts Rules of Order. Use of Roberts Rules is not required but should be generally followed for the conduct of district business.
- Minutes must be taken to provide a written record. They should be sent to all participants immediately following the meeting as a reference to commitments made, and they should be approved at the beginning of the following meeting. Minutes should capture the essence of a meeting, the decisions reached and not the content of every conversation.
- Conduct all transactions in ways that maintain the trust of all contributors (which includes the general public).

FINANCES

Securing funding is a board function and not one of paid staff. The board should establish a committee to develop a fundraising plan and decide how to implement it.

Each board should have a finance committee to oversee all financial aspects of the district and advise the board in financial matters. The committee should

- Review all sources of funding and develop reliable acquisition strategies.
- Develop budgets and budget reports.
- Ensure finances are handled according to sound accounting principles and in accordance with the Desktop Procedures for Fiscal Operations.
- Arrange required audits.
- Check the reliability of financial information.

The first step in district funding is to define the needs and assess available funding in relation to those needs. The following is a summary of typical funding sources:

Federal – a district may develop a cooperative agreement or apply for a grant for a specific purpose. These sources may require matching funds from the district.

State – Virginia, primarily through DCR, makes funding available for district operations, NPS implementation programs and other mutual projects and programs. This money may be used for, but is not limited to:

- Cover costs associated with district operations and employ district staff.
- Implement NPS soil and water quality management projects.

The Virginia Department of Environmental Quality (DEQ) offers a loan program for the implementation of certain agricultural conservation practices.

Local Funding – Districts develop fundraising activities to provide additional funding for programs. The primary local donors are the counties and cities. Other local development activities take on many forms, such as contractual agreements, fundraising drives, special events, direct appeals, honorary gifts, bequests, sponsorships and advertisements.

BUDGET

The budget is the most important tool for the board to use when deciding how to allocate district funds. A budget should be prepared annually by the finance committee and should include:

- Consideration of unexpended funds from the previous year as presented in the financial statement.
- Projected revenue and expenses.
- A detail of actual income and expenditures for the previous year.
- An estimate of staff and costs to accomplish proposed activities.
- A narrative summary.

Budget requirements vary for different grants. All requirements must be met prior to submission.

ACCOUNTABILITY

As public officials, directors are accountable for all funds, property and equipment belonging to the district. Accountability requires documentation, as well as maintaining public trust that the district is applying all funds entrusted to it in a manner that the public will accept and support.

Districts must periodically accommodate an audit of accounts, receipts and disbursements, as well as adhere to the guidance in the Desktop Procedures for District Fiscal Operations.

- To receive monies from DCR, districts must fully disclose their financial situations by submitting certain information in a quarterly financial report (Attachment E) to DCR.

- Annual reports are developed and provide a public record of accomplishments, financial status and volunteer support. They may include a message from the chair, statement of the district's financial condition, highlights of the year and remaining problems to be solved. These reports can be used effectively for education, public relations, and fundraising with local governments and businesses.
- Quarterly and special reports describing project accomplishments, remaining tasks, problems encountered and fiscal data are often required by grant sources.
- Property inventory is developed and updated annually, with a copy filed in an offsite location for security purposes.
- Accountability is a legal obligation. Directors have some protection from liability while discharging their official duties and are named as insured's within the Commonwealth of Virginia's Risk Management Plan. Further, districts may request the assistance from a local, public or private legal source or the Office of the Attorney General should legal advice be needed. A bonding insurance policy secured through the Division of Risk Management covers all SWCD directors and employees. To minimize legal liability, each director should gain a thorough understanding of the roles and responsibilities of the office and should fulfill those responsibilities as conscientiously as possible.

CONFLICTS OF INTEREST

Public officials in Virginia, including district directors and SWCD staff, should identify any potential conflict of interest, including the approval of a cost-share application for an operation in which that director or staff member has a direct or indirect material personal interest. Directors and/or staff members should identify the potential conflict and remove themselves from the room until all discussion about that application has been completed. Specific questions pertaining to conflict of interest should be posed to the Office of the Attorney General. (Code of Virginia, Title 2.2 Chapter 31 State and Local Conflict of Interests Act § 2.2-3100 - 3131). For more information visit <http://leg1.state.va.us/>

CIVIL RIGHTS/EQUAL EMPLOYMENT OPPORTUNITY

In dealing with both clients and employees, district directors must comply with all federal and state laws established to protect citizens' civil rights and employment opportunities. For further information, contact the Office of the Attorney General, Office of Civil Rights at 804-225-2292 or <https://www.oag.state.va.us/programs-outreach/civil-rights>

SEXUAL HARASSMENT

Districts must provide a work environment free from discrimination, intimidation, coercion and sexual harassment. Sexual harassment is unlawful and intolerable. For more information visit: <https://www.dhrm.virginia.gov/docs/default-source/hrpolicy/policy-2-35-civility-in-the-workplace-policy.pdf>

THE BASICS OF NONPOINT SOURCE POLLUTION (NPS) AND WATER QUALITY



“The days have ended when the forest may be viewed only as trees and trees viewed only as timber. The soil and the water, the grasses and the shrubs, the fish and the wildlife, and the beauty that is the forest must become integral parts of the resource manager’s thinking and actions.”

— **Hubert Humphrey**

THE BASICS OF NONPOINT SOURCE POLLUTION (NPS) AND WATER QUALITY

District directors are elected or appointed to represent the conservation needs of their communities. Therefore, the goals of each board will vary, as will its community's needs. For example, districts in the eastern half of the state may be strongly governed in their conservation planning by the Virginia Chesapeake Bay Preservation Act. Some districts have responsibility for maintaining earthen flood control structures and therefore are guided by the Virginia Dam Safety Act. Still, others may be influenced by the Virginia Erosion and Sediment Control Law due to construction activity in the district.

Many issues are common to all districts:

- Water quality
- Addressing NPS pollution
- Land-use planning
- Land-use changes, open space and preservation of productive farm land
- Use of natural resources

Water quality issues gained greater recognition in 1987 when the Clean Water Act was amended to provide additional funding to control NPS pollution, any type of water pollution that cannot be linked to a specific location. There are four major categories of NPS pollution: sediments, nutrients, toxic substances and pathogens.

- Sediments are soil particles transported by water into streams, lakes, rivers and bays. By volume, sediment is the greatest pollutant of all and originates from soil erosion.
- Nutrients are substances that help plants and animals grow. However, in large doses, nutrients such as nitrogen and phosphorus can cause excessive plant and algae growth in lakes and streams, suffocating the natural system.
- Toxic substances cause human and wildlife health problems. They include chemical wastes, metals, pesticides, formaldehyde, household chemicals, gasoline, motor oil, battery acid and roadway salt.
- Pathogens are disease-causing microorganisms (actually bacteria) and include those present in human and animal wastes.

Every board faces both common and unique environmental challenges. However, one fact remains the same: the quality of life in any area is dependent on the stewardship of its natural resources.

CONSERVATION PROGRAMS



“The central thing for which conservation stands is to make this country the best possible place to live in, both for us and our descendants. It stands against the waste of natural resources which cannot be renewed, such as coal and iron; it stands for the perpetuation of the natural resources which can be renewed, such as food-producing soils and forests...”

— **Gilford Pinchot**

CONSERVATION PROGRAMS

Programs exist to address soil and water conservation issues and are funded by state and federal monies allocated to conservation districts on an as-needed or competitive basis. District boards implement the programs and help develop and approve the conservation plans on a local level.

Virginia Agricultural Best Management Practices (BMP) Cost-Share Program, Virginia Ag BMP Tax Credit Program and Conservation Reserve Enhancement Program (CREP)

These programs provide incentives for farmers to install conservation practices. Funding needs are determined by an integrated analysis of the area. Partial assistance is available year-round for individuals who carry out a district board-approved conservation plan. The programs consist of a few dozen practices, including:

- No-till
- Cover Crops
- Livestock Exclusion
- Riparian Buffers
- Nutrient Management

DEQ Agricultural BMP Loan Program

Funds for loans are generally made available to farmers having the greatest potential for actual pollution resulting from surface runoff, erosion, leaching or intense production of animal waste.

Nutrient Management Program

Virginia's Nutrient Management Program assists farmers and other constituents to protect water quality by encouraging efficient use of manures, fertilizers, sewage sludge and other nutrient sources for crop production. DCR nutrient management specialists prepare site-specific nutrient management plans, review plans prepared by others, and conduct technical and educational programs. Plans are required for large permitted confined animal operations and for certain sewage sludge application sites in order to be eligible for certain cost-sharing and tax credits. DCR's voluntary certification program allows individuals to take an examination and be certified to write nutrient management plans. DCR also negotiates more efficient use of non-agricultural fertilizers with lawn service companies and homeowner fertilizer retailers to assist in reducing nutrient pollution from urban areas.

The primary objectives of this program are to:

- Improve water quality by minimizing application of excess nutrients.
- Maximize crop use of applied nutrients.

Resource Management Plans

The Resource Management Plan (RMP) Program is a voluntary program that allows agricultural landowners or operators to have a resource management plan written by a certified RMP plan developer. Each plan must contain minimum standard best management practices. When a participant has fully implemented the plan, the planned acreage is granted "certainty," meaning that it is considered to be in full compliance with a load allocation contained in a TMDL established under the §303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient or sediment impairments; any requirements of the Virginia Chesapeake Bay TMDL: Watershed Implementation Plan; and applicable state water quality requirements for nutrients and sediment. The primary role of Soil and Water Conservation Districts in this program is to function as the review authority, reviewing plans and conducting verification and compliance inspections.

Food Security Act (FSA)

Provisions of the federal 1985 Food Security Act and subsequent federal Farm Bills (1990, 1996, 2002, 2008, 2014, 2018 and their amendments) require producers with highly erodible cropland to completely implement conservation plans to obtain benefits, such as price support and crop insurance. Highly erodible land has a potential erosion rate at least eight times the rate at which soil maintains its productivity. The development and implementation of conservation plans helps reduce soil loss to levels that are technically and economically acceptable.

Chesapeake Bay Preservation Act

In Tidewater Virginia, soil and water quality conservation plans must be established and approved by the district board for agricultural land in locally designated Chesapeake Bay Preservation Areas. These areas are divided into two categories:

- Resource Protection Areas (RPA) – sensitive lands at or near the shoreline, which, by nature, affect water quality.
- Resource Management Areas (RMA) – land adjacent to RPAs, which protect RPAs and water quality.

Soil and water quality conservation plans are developed in accordance with state regulations carried out by DEQ and county ordinances. The plans address:

- Soil erosion control
- Nutrient management
- Pest management
- Required vegetated buffers adjacent to RPAs

URBAN PROGRAMS

Erosion and Sediment Control Program

In accordance with the Virginia Erosion and Sediment Control Law, Regulations, and Certification Regulations, effective July 1, 2013, DEQ is responsible for implementation of the Virginia ESC Program. The purpose of the program is to help prevent destruction of property and natural resources caused by soil erosion, sedimentation and nonagricultural runoff from regulated land-disturbing activities.

ESC regulations specify the "minimum standards" that must be followed on all regulated activities including: criteria, techniques and policies. State law explains the rights and responsibilities of local and state governments to administer ESC programs, as well as those of property owners who must comply with them.

A network of local and government programs regulates most private land-disturbing activities, while DEQ oversees state and federal activities. Throughout the Commonwealth, Districts assist local governments with ESC programs at varying degrees. Districts may be the designated ESC plan review and approval authority, ESC inspector, ESC administrator or a combination of roles.

Stormwater Management Program

DEQ is also the lead agency for developing and implementing statewide stormwater management programs to protect the Commonwealth's water quality and quantity.

In response to the Virginia Stormwater Management Regulations, some Districts provide assistance to local entities similar to that provided for ESC programs.

Virginia Conservation Assistance Program (VCAP)

A pilot project was started in 2012 with four Districts within the Chesapeake Bay Watershed for the purpose of increasing public awareness about conservation practices on urban and residential properties and installing such practices. Practices include rain gardens, reduction of residential fertilizer and urban forest buffers. In December 2015, DEQ confirmed the commitment of funding for a Chesapeake Bay-wide program.

Dam Safety Program

In order to protect public safety, dams impounding water are regulated by permits according to the height of the structure and the size of the water surface area impounded. Districts owning dams must provide for their operation and maintenance and adhere to permit requirements. Maintenance may involve annual structural checks, mowing and fertilization of sod earthen structures. DCR staff provides technical and administrative support to districts for dam safety. This presents several two-way opportunities such as:

- Meetings with directors and district employees on-site to inspect the dam.
- Review of spillway design modifications with DCR's consulting engineers.
- Review of Emergency Action Plans.
- A partnership opportunity between district directors and DCR to bring all dams in the district into compliance.

Floodplain Programs

DCR assesses flooding problems in Virginia, and identifies strategies for solutions. DCR also:

- Provides mitigation planning, technical workshops and community visits.
- Responds to inquiries from insurance representatives, real estate agents and lending institutions.
- Maintains a centralized state-wide database.
- Assists with floodplain district zoning and local ordinances.
- Administers the Flood Prevention and Protection Assistance Fund.

SHORELINE PROGRAMS

Virginia has more than 5,000 miles of tidal shoreline. DCR provides technical expertise to localities and private property owners to address shoreline erosion prevention and management.

Impaired Waters Program

Increasing numbers of Virginia's waterways are being included on the 303(d) impaired waters list. When waters are designated as impaired, they are referred to as Total Maximum Daily Load (TMDL) watersheds. A study is conducted on the impaired watershed to outline the source(s) of the impairment followed by the formulation of an implementation plan (IP). The IP reviews possible solutions to the impairment and involves stakeholder participation as well as partnerships between agencies such as SWCDs, DCR, DEQ and localities. Districts are often the resource needed to carry out the implementation plan and are often provided funding opportunities to implement the IP.

Awards Programs

Virginia has an extensive awards program offering recognition to those who excel in the conservation of natural resources. Nearly all districts have active awards programs. By promotion of these programs, districts can recognize individuals and promote district programs.

Some of the more widely used programs are:

- VASWCD – Conservation Teacher and Conservation Education District of the Year Awards

- VASWCD – E.C. Compton Meritorious Achievement Award for Associate Directors
- VASWCD – R.E. "Bobby" Wilkinson Award for District Director
- Dora and Wilkie Chaffin Award for district staff
- DCR-DSWC Clean Water Farm Awards
- VASWCD – Watershed Connections Outstanding Director Award
- VASWCD – Director Years of Service Pins
- VASWCD – Legislator of the Year Award
- VASWCD – Forestry Awards
- VACDE Outstanding Employee Awards
- NACD Awards
- Earth Team Volunteer

In addition to those listed, many districts sponsor and promote their own awards programs to increase public awareness.

OTHER PROGRAMS

A variety of programs have been developed to address different issues related to soil and water conservation. Many of these programs are funded by both state and federal monies allocated to conservation districts on an as-needed or competitive basis. District boards implement the programs and help develop and approve the conservation initiatives at the local level.

SWCD PARTNERS



“There cannot be a more rational principle in the code of agriculture, than that every farm which is in good heart should be kept so; that everyone not in good heart should be made so...”

— **James Madison**

SWCD PARTNERS

Districts rely on assistance and funding from federal, state and local governments; various associations; private organizations, businesses and individuals. Many agencies have a strong interest in the same natural resource issues; therefore, combining efforts can save time and money.

Cooperative assistance with joint projects can be formally documented through a cooperative agreement, or a Memorandum of Understanding. Less formal involvement can take the form of appointing representatives from interested groups to be associate directors, advisors or committee members. Further positive relationships can be built if directors serve on a committee or task force of cooperating organizations.

FEDERAL AGENCIES

United States Department of Agriculture (USDA)

USDA is the umbrella under which the following cooperating agencies are found:

Natural Resources Conservation Service (NRCS)

The working relationship between districts and NRCS began in the 1930s as the legislation that created the federal conservation system and allowed state governments to create districts. The NRCS, operating through a series of cooperative agreements, provides staffing to advise and assist districts with technical assistance to producers and to carry out federally mandated conservation programs. The main focus of NRCS technical assistance is planning and implementation of conservation practices to protect the soil and water resources. This includes soil surveys, watershed planning and management, technical soil assistance, engineering assistance, and emergency flood protection. NRCS maintains a series of field offices across Virginia. Many SWCDs are co-located with NRCS at these locations through additional cooperative agreements that may include items such as phone service, equipment use and other shared technical resources.

Farm Service Agency (FSA)

FSA administers programs for farmers related to production and conservation practices. It also provides aerial photos for conservation work, assistance for land treatment and development, and natural disaster relief.

Rural Development (RD)

RD makes loans for farm ownership, operating expenses, livestock emergencies, soil and water conservation, grazing, tribal land acquisition, recreation and subsidized and unsubsidized housing.

U. S. Forest Service (USFS)

The Forest Service carries out its mission through five main activities:

- Protection and management of natural resources on National Forest System Lands.
- Research on all aspects of forestry, rangeland management, and forest resource utilization.
- Community assistance and cooperation with state and local governments, forest industries, and private landowners to help protect and manage non-federal forest and associated range and watershed lands.
- Achieving and supporting an effective workforce that reflects the full range of diversity of the American people.
- International assistance in formulating policy and coordinating U.S. support for the protection and sound management of the world's forest resources.

Department of the Army

United States Army Corps of Engineers (COE)

The Corps of Engineers plans and constructs reservoirs and local measures to control floods and improve navigation. It is active in flood control, wetlands protection, hydroelectric power, municipal and industrial water supplies, and recreation, as well as planning for all functions of water resource development.

United States Environmental Protection Agency (EPA)

The EPA carries out federal pollution control laws covering air, land, waste and water. The EPA has delegated many pollution control programs to state governments. State agencies carry out many natural resource management activities. The mission of the EPA is to protect human health and to safeguard the natural environment – air, land and water – upon which life depends.

Department of the Interior

The United States Fish and Wildlife Service (USFWS)

The USFWS's major responsibilities involve migratory birds, endangered species, certain marine mammals, and freshwater and anadromous fish. The USFWS mission is, working with others, to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. The agency conducts research, environmental impact assessments and manages wildlife refuges.

National Park Service

The National Park Service preserves the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

United States Geological Survey (USGS)

The USGS conducts studies on public lands as well as research in geology, geophysics, hydrology, water quality, cartography and related sciences. It also studies natural hazards, such as earthquakes and volcanoes and identifies flood hazard zones.

STATE AGENCIES AND ORGANIZATIONS

Virginia Soil and Water Conservation Board (VSWCB)

As the oversight body for certain state soil and water conservation programs, the VSWCB helps guide the delivery of soil and water conservation services to the citizens of the Commonwealth, provides expert advice to the governor and has authority over several DCR programs. The VSWCB provides oversight to the districts, establishes financial policy regarding operational and administrative funding to districts, appoints directors for at-large positions, approves the Virginia Agricultural BMP Cost-Share and Tax Credit Program, and oversees the programs associated with the Virginia Dam Safety Act. It approves equipment and water resource loans.

As referenced in Virginia Code (§10.1-502) the Board shall consist of nine voting members. All voting members are appointed by the governor and serve four-year terms. At least two of the at-large members must have a demonstrated interest in natural resource conservation with a background or knowledge in dam safety, soil conservation or water quality protection. Additionally, four members shall be farmers and two members shall be farmers or district directors.

The DCR director, or his designee, shall be a nonvoting ex officio member of the Board. The Board may invite the Virginia State Conservationist, Natural Resources Conservation Service, to serve as an advisory nonvoting member. The VSWCB is supported mainly by staff of DCR's Division of Soil and Water Conservation and Division of Dam Safety and Floodplain Management.

Virginia Department of Conservation and Recreation (DCR)

DCR has seven divisions: Administration and Finance, State Parks, Planning and Recreation Resources, Natural Heritage, Land Conservation, Soil and Water Conservation, and Dam Safety and Floodplain Management. DCR maintains a close and important relationship with SWCDs. The department, primarily through the Division of Soil and Water Conservation, provides financial, administrative and technical assistance to districts; disseminates information to statewide and national associations of conservation districts; informs the public about district programs; and assists with coordination of NPS pollution programs, as well as programs for urban conservation, district dam safety and shoreline erosion.

Virginia Department of Forestry (DOF)

As protector and developer of Virginia's forest resources, DOF prevents and suppresses forest fires, enforces forest fire laws, encourages good forestry practices and conducts reforestation programs. It also implements programs to control insects and diseases that attack and injure Virginia's forest resources.

Virginia Cooperative Extension (VCE)

VCE is part of the Land Grant College/University System and is an arm of the USDA with funding from federal, state and local sources to carry out its mission. VCE's primary focus is on education programs targeting farmers, 4-H Club members (youth), families and consumer groups. By law, an Extension agent is a director on every district board.

Virginia State University - Small Farm Outreach Program (SFOP)

As a part of Cooperative Extension at Virginia State University, SFOP educates and empowers small, limited-resource, socially disadvantaged and veteran farmers and ranchers. SFOP provides outreach and learning opportunities to small farmers for production management, financial and risk management, marketing, USDA assistance programs and more.

Virginia Department of Environmental Quality (DEQ)

DEQ combines the staff from six regional offices covering more than 30 program areas to take a comprehensive and unified approach to managing environmental issues. DEQ is concerned with water and environmental policy focusing on protecting Virginia's environment and promoting the health and well-being of the citizens of the Commonwealth. DEQ is the lead non-point agency in Virginia.

Virginia Department of Agriculture and Consumer Services (VDACS)

VDACS, located within the governor's Secretariat of Agriculture and Forestry, has both economic development and regulatory responsibilities. It is responsible for over 60 laws and more than 70 regulations relating to consumer protection and promotion of agriculture. VDACS is organized into four units - the Commissioner's Office, Division of Animal and Food Industry Services (AFIS), Division of Consumer Protection, and Division of Marketing. VDACS focuses on the economic growth and development of Virginia agriculture, encourages environmental stewardship and provides consumer protection. VDACS administers the Agricultural Stewardship Act with close cooperation from soil and water conservation districts.

Virginia Department of Wildlife Resources (DWR)

The mission of DWR is to conserve and manage wildlife populations and habitat for the benefit of present and future generations; to connect people to Virginia's outdoors through boating, education, fishing, hunting, trapping, wildlife viewing, and other wildlife-related activities; and to protect people and property by promoting safe outdoor experiences and managing human-wildlife conflicts.

State Water Control Board (SWCB)

The SWCB enforces the Virginia Water Control Law, which provides for clean ground and surface water throughout the state (Code of Virginia, Title 62.1, Chapter 3.1). The board performs water resource planning, establishes standards for water quality and is the lead for both nonpoint and point sources of pollution. It also issues permits to agricultural operations with large numbers of livestock under the Virginia Pollution Abatement permit program.

Virginia Marine Resources Commission (VMRC)

VMRC manages the Commonwealth's marine fisheries and habitat resources. It emphasizes a decision-making process that is science-based, balanced and open to wide public participation to ensure healthy resources and maximum benefit to all citizens. It re-seeds publicly owned oyster beds, leases oyster planting grounds, constructs artificial reefs to enhance habitat and is responsible for Virginia's streambeds and tidal bottomlands, wetlands and dunes. The Virginia Marine Patrol enforces boating, fishery, and habitats management laws and regulations in tidal waters. It also provides search and rescue services, and public health services related to seafood.

LOCAL GOVERNMENTS AND ORGANIZATIONS**County/City**

All conservation districts in Virginia are defined geographically along county and city boundary lines. Cooperation with cities and counties is mutually beneficial. While there is no legal mandate to work cooperatively, each can be beneficial to one another in many ways. Local governments are empowered to effect land-use patterns through zoning, and are natural allies with districts because they share a keen concern for land and its use. Counties and cities can provide funding, office space, co-sponsorship and operation and maintenance for watershed projects; cooperation on county parks; and funds for soil surveys. Resource contacts include: board of supervisors, administrators, county administrators and city managers, treasurer, clerk of the court, engineers, assessor, highway superintendent, health officer, planning commission, school board, parks and recreation department, zoning administrator, and others.

Regional Planning District Commissions (PDCs, also known as Regional Commissions)

PDCs are voluntary associations created in 1969 pursuant to the Virginia Area Development Act and regionally executed charter agreements. Their purpose is to encourage and facilitate local government cooperation and state-local cooperation in addressing problems of greater than local significance. There are 21 PDCs in the Commonwealth representing various local governments on a regional basis. Many prefer to be known as regional commissions.

Universities, Colleges and Local School Systems

Educational institutions help carry out conservation education plans and cooperate by delivering many public service and outreach activities. School contacts include: faculty and staff, school board members, principals, superintendents, vocational agriculture instructors, and science and natural resources teachers.

DISTRICT ASSOCIATIONS

National Association of Conservation Districts (NACD)

The NACD is a nonprofit, nongovernmental organization representing nearly 3,000 districts and their state associations in the 50 states, Puerto Rico and the U.S. Virgin Islands. It unites districts to develop national conservation policies, influence lawmakers and build partnerships with other agencies and organizations. NACD also provides services to its districts such as brochures and report printing, distribution of conservation films, and training and education.

Virginia Association of Soil and Water Conservation Districts (VASWCD)

The VASWCD is a statewide, nonprofit organization, organized to collect and address needs of local districts. It speaks for districts before state and federal agencies and governing bodies. The VASWCD provides districts with model policies and programs and training opportunities and serves as a forum for idea exchange among districts. Standing committees coordinate most of the association's activities and workload.

Virginia Association of Conservation District Employees (VACDE)

The VACDE mission is to provide professional development, leadership and a voice for communicating issues and solutions on behalf of district employees.

Soil and Water Conservation Society (SWCS)

The SWCS is a private, nonprofit, educational organization dedicated to fostering the science and the art of soil, water and related natural resource management to achieve sustainability. It promotes and practices an ethic recognizing the interdependence of people and the environment. The Virginia chapter of SWCS works to achieve this goal through lobbying, public information, awards programs and conferences. There is a Virginia Tech Student Chapter of the SWCS that supports the missions of the national and state organizations by engaging in a variety of service and social activities such as stream monitoring, trail maintenance, hiking and caving.

PRIVATE ORGANIZATIONS, BUSINESSES AND ASSOCIATIONS

Private industries are often interested in conservation. In particular, natural resource industries frequently share interests with districts. These industries include lumber, mining, power, environment and engineering consulting. Private organizations such as civic organizations, fishing and hunting clubs, and environmental groups often have a strong interest in promoting conservation.

Private organizations can be an excellent resource for volunteers and other district partnerships. The following is a partial list of possible organizations:

- Alliance for the Chesapeake Bay
- Boy and Girl Scouts
- Chambers of commerce
- Chesapeake Bay Foundation
- 4-H Clubs
- Virginia Farm Bureau
- Future Farmers of America (FFA)
- Garden clubs
- Homeowner associations
- Izaak Walton League of America
- Lake and river associations
- Piedmont Environmental Council
- Trout Unlimited
- Virginia Cattlemen's Association
- Virginia Chapter of Ducks Unlimited
- Virginia Conservation Network
- Virginia Corn and Soybean Association
- Virginia Dairyman's Association
- Virginia Poultry Federation
- Virginia Forage and Grassland Council
- Virginia Quail Unlimited
- Virginia Grain Producers Association
- Virginia Agribusiness Council

CONSERVATION ABBREVIATIONS

ACE – Advanced Conservation Engineering
APA – Administrative Process Act
APW – Annual Plan of Work
ASA – Agricultural Stewardship Act
BMP – Best Management Practices (s)
CB – Chesapeake Bay
CBF – Chesapeake Bay Foundation
CBLA – Chesapeake Bay Local Assistance
CDC – Conservation District Coordinator
CEF – Conservation Efficiency Factor
COIA – Conflict of Interest Act
CRP – Conservation Reserve Program
CREP – Conservation Reserve Enhancement Program
CWFA – Clean Water Farm Award
DC – District Conservationist (NRCS-USDA)
DCR/DSWC – Virginia Department of Conservation and Recreation/Division of Soil and Water Conservation
DEQ – Department of Environmental Quality
DMLR – Department of Mined Land Reclamation
DMME – Department of Mines, Minerals and Energy
DOF – Virginia Department of Forestry
DWR – Department of Wildlife Resources
EJAA – Engineering Job Approval Authority
E&S – Erosion and Sediment Control
EPA – United States Environmental Protection Agency
EQIP – Environmental Quality Incentives Program
FLSA – Fair Labor Standards Act
FMLA – Family & Medical Leave Act
FOIA – Freedom of Information Act
FSA – Farm Service Agency (USDA)
FTE – Full-time Equivalent
FY – Fiscal Year
HEL – Highly Erodible Land
HU – Hydrologic Unit
ICE – Introduction to Conservation Engineering
IDP – Individual Development Plan
MOU/MOA – Memorandum of Understanding/Agreement

NACD – National Association of Conservation Districts
NASCA – National Association of State Conservation Agencies
NM – Nutrient Management
NMP – Nutrient Management Plan
NPS – Nonpoint Source Pollution
NRCS – Natural Resources Conservation Service (USDA)
OAG – Office of the Attorney General
OCB – Outside the Chesapeake Bay
PY – Program Year
RMP – Resource Management Plan
RFP – Request for Proposals
RCPP – Regional Conservation Partnership Program
SEAS – Shoreline Advisory Service
SWCD – Soil and Water Conservation District
T – The amount of soil that any given soil type would be able to lose and have a zero net soil loss (usually calculated on tons/acre/year basis – NRCS)
TA – Technical Assistance
TAC – Technical Advisory Committee
TMDL – Total Maximum Daily Load
USDA – United States Department of Agriculture
USFS – United States Forest Service
USFWS – United States Fish and Wildlife Service
USGS – United States Geological Survey
VASWCD – Virginia Association of Soil and Water Conservation Districts
VACS – Virginia Agricultural Cost-Share
VACDE – Virginia Association of Conservation District Employees
VCE – Virginia Cooperative Extension
VDACS – Virginia Department of Agriculture and Consumer Services
VMRC – Virginia Marine Resource Commission
VOF – Virginia Outdoors Foundation
VSWCB – Virginia Soil and Water Conservation Board
WIP – Watershed Implementation Plan
WQIA (F) – Water Quality Improvement Act (Fund)

COUNTIES/CITIES BY DISTRICT

COUNTIES/CITIES BY DISTRICT:

Accomack Co.	Eastern Shore SWCD	Fredericksburg, City of	Tri-County/City SWCD
Albemarle Co.	Thomas Jefferson SWCD	Galax, City of	New River SWCD
Allegheny Co.	Mountain SWCD	Giles Co.	Skyline SWCD
Amelia Co.	Piedmont SWCD	Gloucester Co.	Tidewater SWCD
Amherst Co.	Robert E. Lee SWCD	Goochland Co.	Monacan SWCD
Appomattox Co.	Robert E. Lee SWCD	Grayson Co.	New River SWCD
Augusta Co.	Headwaters SWCD	Greene Co.	Culpeper SWCD
Bath Co.	Mountain SWCD	Greenville Co.	Chowan Basin SWCD
Bedford Co.	Peaks of Otter SWCD	Halifax Co.	Halifax SWCD
Bland Co.	Big Walker SWCD	Hanover Co.	Hanover-Caroline SWCD
Botetourt Co.	Mountain Castles SWCD	Harrisonburg, City of	Shenandoah Valley SWCD
Brunswick Co.	Lake Country SWCD	Henrico Co.	Henricopolis SWCD
Buchanan Co.	Big Sandy SWCD	Henry Co.	Blue Ridge SWCD
Buckingham Co.	Peter Francisco SWCD	Highland Co.	Mountain SWCD
Buena Vista, City of	Natural Bridge SWCD	Isle of Wight Co.	Peanut SWCD
Campbell Co.	Robert E. Lee SWCD	James City Co.	Colonial SWCD
Caroline Co.	Hanover-Caroline SWCD	King George Co.	Tri-County/City SWCD
Carroll Co.	New River SWCD	King & Queen Co.	Three Rivers SWCD
Charles City Co.	Colonial SWCD	King William Co.	Three Rivers SWCD
Charlotte Co.	Southside SWCD	Lancaster Co.	Northern Neck SWCD
Charlottesville, City of	Thomas Jefferson SWCD	Lee Co.	Daniel Boone SWCD
Chesapeake, City of	Virginia Dare SWCD	Lexington, City of	Natural Bridge SWCD
Chesterfield Co.	James River SWCD	Loudoun Co.	Loudoun SWCD
Clarke Co.	Lord Fairfax SWCD	Louisa Co.	Thomas Jefferson SWCD
Covington, City of	Mountain SWCD	Lunenburg Co.	Southside SWCD
Craig Co.	Mountain Castles SWCD	Lynchburg, City of	Robert E. Lee SWCD
Culpeper Co.	Culpeper SWCD	Madison Co.	Culpeper SWCD
Cumberland Co.	Peter Francisco SWCD	Mathews Co.	Tidewater SWCD
Dickenson Co.	Lonesome Pine SWCD	Mecklenburg Co.	Lake County SWCD
Dinwiddie Co.	Appomattox River SWCD	Middlesex Co.	Tidewater SWCD
Essex Co.	Three Rivers SWCD	Montgomery Co.	Skyline SWCD
Fairfax Co.	Northern Virginia SWCD	Nelson Co.	Thomas Jefferson SWCD
Fauquier Co.	John Marshall SWCD	New Kent Co.	Colonial SWCD
Floyd Co.	Skyline SWCD	Northampton Co.	Eastern Shore SWCD
Fluvanna Co.	Thomas Jefferson SWCD	Northumberland Co.	Northern Neck SWCD
Franklin Co.	Blue Ridge SWCD	Nottoway Co.	Piedmont SWCD
Frederick Co.	Lord Fairfax SWCD	Orange Co.	Culpeper SWCD

Page Co.	Shenandoah Valley SWCD
Patrick Co.	Patrick SWCD
Petersburg, City of	Appomattox River SWCD
Pittsylvania Co.	Pittsylvania SWCD
Powhatan Co.	Monacan SWCD
Prince Edward Co.	Piedmont SWCD
Prince George Co.	James River SWCD
Prince William Co.	Prince William SWCD
Pulaski Co.	Skyline SWCD
Rappahannock Co.	Culpeper SWCD
Richmond Co.	Northern Neck SWCD
Roanoke, City of	Blue Ridge SWCD
Roanoke Co.	Blue Ridge SWCD
Rockbridge Co.	Natural Bridge SWCD
Rockingham Co.	Shenandoah Valley SWCD
Russell Co.	Clinch Valley SWCD
Scott Co.	Scott County SWCD
Shenandoah Co.	Lord Fairfax SWCD
Smyth Co.	Evergreen SWCD
Southampton Co.	Chowan Basin SWCD
Spotsylvania Co.	Tri-County/City SWCD
Stafford Co.	Tri-County/City SWCD
Staunton, City of	Headwaters SWCD
Suffolk, City of	Peanut SWCD
Surry Co.	Peanut SWCD
Sussex Co.	Chowan Basin SWCD
Tazewell Co.	Tazewell SWCD
Virginia Beach, City of	Virginia Dare SWCD
Warren Co.	Lord Fairfax SWCD
Washington Co.	Holston River SWCD
Waynesboro, City of	Headwaters SWCD
Westmoreland Co.	Northern Neck SWCD
Williamsburg, City of	Colonial SWCD
Winchester, City of	Lord Fairfax SWCD
Wise Co.	Lonesome Pine SWCD
Wythe Co.	Big Walker SWCD
York Co.	Colonial SWCD

**CITIES/COUNTY NOT
COVERED BY SWCDS:**

Alexandria	Manassas
Bristol	Manassas Park
Clifton Forge	Martinsville
Colonial Heights	Newport News
Danville	Norfolk
Emporia	Norton
Fairfax	Poquoson
Falls Church	Portsmouth
Franklin	Radford
Hampton	Richmond
Hopewell	Salem

Arlington County

CALENDAR OF SIGNIFICANT EVENTS

January

- Election of district officers if not done in December.
- Appoint SWCD committees.
- Set meeting dates and times for year.
- Appoint/reappoint SWCD associate directors.
- Review annual plan of work.
- VASWCD Legislative Day.
- Quarterly reports due to DCR.
- Continue working with local government on local budget requests.
- Conduct mid-year personnel evaluations.
- Review of Desktop Procedures for District Fiscal Operations.

February

- Review 4-year longer term plan.

March

- Begin SWCD annual planning process.
- Conduct area spring meetings.

April

- Prepare an annual SWCD operating budget for the coming fiscal year (beginning July 1).
- Educational Foundation Scholarship applications due to VASWCD.
- Conduct area Envirothon competitions.
- Quarterly reports due to DCR.
- Attend area spring meetings.

May

- Soil and Water Stewardship Week.
- Approve SWCD operating budget.
- Youth Camp participant forms due to VASWCD.
- State Envirothon event.
- Update and approve personnel policy.
- Update and approve employee job descriptions.
- Review and approve secondary considerations and average cost list.
- Suggestions for upcoming VACS program year due to Ag TAC.

June

- SWCDs take action on DCR/SWCD grant agreements.
- Approve annual plan of work.
- Conduct year-end personnel evaluations.
- Nominating petitions, declaration of candidacy form and certificate of candidate qualifications due to local registrars by 7 p.m. of the second Tuesday for candidates seeking the office of SWCD director in the general election (every fourth year 2023, 2027).

- State Agricultural BMP Cost-Share Program year ends.
- Approve carry-over practices.

July

- District annual plan of work begins.
- VASWCD Youth Conservation Camp at Virginia Tech.
- Virginia Agricultural BMP Cost-Share Program year begins.
- Quarterly and year-end reports due to DCR.
- Ag BMP verifications begin.

August

- Prepare SWCD annual report.
- Complete Criteria/Nominations forms – R.E. “Bobby” Wilkinson/E.C. Compton Meritorious Achievement Award nominations due.

September

- Conservation Award entries due.
- SWCD annual report due.

October

- Natural Resources Conservation Week.
- Begin working with local governments on local budget requests.
- Quarterly reports due to DCR.
- Submit Clean Water Farm Award application for Grand Basin nominations.

November

- General election including election of SWCD directors for all SWCDs every fourth year (2023, 2027).
- Appoint nominating committee to present slate of officers at December/January board meeting.

December

- VASWCD annual meeting.
- Approve equipment tax credit - BMP tax credits.
- Appoint nominating committee to present slate of officers at January board meeting (recommended).
- Newly elected or appointed directors take oath of office.

NOTES



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Virginia Department of Conservation and Recreation, programs, activities, and employment opportunities are available to all people regardless of race, color, religion, sex, age, natural origin, disability or political affiliation. An equal opportunity/affirmative action employer.

SOIL AND WATER CONSERVATION DISTRICTS

Desktop Procedures for District Fiscal Operations

Adopted by the Virginia Soil and Water Conservation Board
June 26, 2024

Effective Date
July 1, 2024

Issued by:

The Virginia Department of Conservation and Recreation

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Soil and Water Conservation Districts
Desktop Procedures for District Fiscal Operations

Section I – Introduction

The Virginia Soil and Water Conservation Board's (VSWCB) Desktop Procedures for District Fiscal Operations (Procedures) are provided to assist Soil and Water Conservation District (SWCD or District) Boards of Directors (BOD) and staff in obtaining a full and rapid understanding of their fiscal duties and fiduciary responsibilities so they can appropriately execute their fiscal operations. The Procedures shall be reviewed annually by the District BOD or its Finance Committee and documented in the official minutes.

Development of and Revisions to the Desktop Procedures for District Fiscal Operations

The Virginia Department of Conservation and Recreation (DCR), Division of Soil and Water Conservation, contracted with professional staff of private accounting organizations to develop and, later, refine the contents of these Procedures. It is the intention of DCR to continue to revise the Procedures as needed and share these revisions with each District. Any questions regarding the information in the Procedures should be directed to the DCR Conservation District Coordinators (CDC).

Version History

Version	Effective Date
Original	August 1998
Revision 1	December 2001
Revision 2	December 2003
Revision 3	July 2006
Revision 4	October 2014
Revision 5	July 2016
Revision 6	July 2017
Revision 7	July 2019
Revision 8	July 2020
Revision 9	July 2022
Revision 10	July 2024

Section II – Board Requirements and Responsibilities

Directors

Each District is required to have a Board of Directors (BOD) comprised of local citizens elected or appointed to four-year terms of office. The Directors are not public employees and do not receive a salary for their District work. However, Directors may receive reimbursement for expenses associated with performance of their District functions. The District BOD may appoint associate Directors who do not have voting capabilities, but augment the Directors' knowledge and experience. Associate Directors may serve on District committees when requested, are encouraged to attend at least 75 percent of the monthly BOD meetings, and may receive reimbursement for District-related expenses.

Responsibilities of BOD members include, but are not limited to, the following:

- Identify local conservation needs
- Ensure the proper management of the District's financial and personnel resources
- Represent local citizens in conservation issues
- Educate others about conservation issues and programs
- Work effectively with local, state, and federal agencies to resolve conservation problems
- Attend regularly scheduled BOD meetings and meetings of allied organizations
- Serve on standing and ad-hoc District committees

DCR has produced a Soil and Water Conservation District Director Resource Notebook. All new Directors should obtain this notebook and read it thoroughly. The Director Resource Notebook is also available online (<https://www.dcr.virginia.gov/soil-and-water/document/2024-Director-Resources-Notebook-combined.pdf>). It provides guidance that should be helpful in performing the Director responsibilities and covers the following topics:

- Roles and Responsibilities of Directors
- Administration of the Districts
- District Issues
- Conservation Programs
- A list of common acronyms
- Partners and contact information
- Quick guides for Parliamentary Procedure, the Freedom of Information Act, and the Conflict of Information Act

In order to be adequately prepared to serve the District, all new Directors are expected to complete Director training within six months of qualifying for office as a BOD member. The online training is available on the VASWCD website: <https://vaswcd.org/leadership-course/>.

As an elected or appointed official, Directors are required to take an oath of office and make a personal commitment to fulfill the responsibilities of the position. Further, as public officials, Directors must uphold laws of the Commonwealth. Among the many state laws and regulations that are directly applicable to Districts and their boards of Directors, the Virginia Freedom of

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Information Act (FOIA) has particular significance to the ways Districts as “Public Bodies” must conduct business.

Freedom of Information Act (FOIA)

Newly elected, re-elected, appointed and reappointed Directors should receive a copy of the current FOIA law within two weeks following their election, re-election, appointment or reappointment. Pursuant to § 2.2-3704.3 of the *Code of Virginia*, each elected Director is required to complete the biennial FOIA training for local elected officials. An online training course is provided by the Virginia Freedom of Information Advisory Council (<http://foiacouncil.dls.virginia.gov/foiacouncil.htm>). It requires an individual email address. In-person, group training is also available by request from the Virginia Freedom of Information Advisory Council or the local government attorney. This training must be completed within two months of assuming office and every other year thereafter. It is recommended that all appointed Directors and associate Directors take the training as well.

Furthermore, each District is required to designate a FOIA Officer, who may be staff or a Director, and have that person complete required biennial training for FOIA Officers. Once designated, the FOIA Officer information must be reported to the Virginia FOIA Council; instructions for reporting this information can be found on the FOIA Council webpage (<http://foiacouncil.dls.virginia.gov/foiacouncil.htm>). When questions arise, counsel may be sought from the Attorney General’s Office or from the Virginia FOIA Council. The FOIA Council can be reached via telephone at 866-448-4100 or via email at foiacouncil@dls.virginia.gov.

Conflict of Interest Act (COIA)

The State and Local Government Conflict of Interests Act ("COIA"), § 2.2-3100 et seq. of the *Code of Virginia*, prohibits a range of behavior relating to impermissible conflicts. COIA, along with federal corruption statutes, applies to public officials and employees of the Districts. Newly elected, re-elected, appointed, and reappointed Directors, as well as recently hired staff, should receive a copy of the current COIA law within two weeks of their election, re-election, appointment, reappointment, or hire. Familiarity with provisions of this law is expected of every District Director and employee. Each District elected or appointed Director must complete the required biennial COIA training provided online or in person by the Virginia Conflict of Interest and Ethics Advisory Council. The online training is available at <http://ethics.dls.virginia.gov/index.asp> (Directors should select “Local elected officials or EDAs/IDAs” when registering).

The COIA law provides for both civil and criminal penalties for violations. District officers or staff who are concerned that certain conduct might violate COIA should ask legal counsel at the Office of the Attorney General or the Virginia Conflict of Interest and Ethics Advisory Council for an opinion and may rely on such advice as a shield to prosecution pursuant to § 2.2-3121 of the *Code of Virginia*.

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District Directors are not permitted to decide or vote on matters in which they have a personal or professional stake. Directors with potential conflicts of interest must disclose to the BOD or other committee members the material facts as to their personal interest in the transaction and/or in any corporation, partnership, association, or other organization that may receive financial benefit as a result of the decision of the BOD or committee.

After disclosure of the possible conflict of interest, the Director or staff person (interested individual) shall leave the room prior to the discussion of the issue. The interested individual shall not participate in any discussion or the making of any decision or recommendation associated with the subject issue. Such action shall be noted in the minutes of the BOD or committee. The interested individual may return to the room and resume participation in the proceedings once all discussions have concluded and decisions and recommendations have been rendered pertaining to the issue. Specific questions pertaining to conflicts of interest should be directed to the District's assigned Assistant Attorney General. District Directors should take care to maintain their professional independence in both fact AND appearance.

Records Management

Records generated and/or received, regardless of format (electronic or hard copy), within the course of a District's operations must be maintained in accordance with the Library of Virginia Records Retention Schedules available at

http://www.lva.virginia.gov/agencies/records/sched_local/index.htm.

All District BODs are required by the *Code of Virginia* §42.1-85 to designate a Records Retention Officer, who may be staff or Director. This officer is responsible for ensuring that all supporting documentation is maintained according to the record retention policy and schedule and serves as the liaison to the Library of Virginia. A Virginia RM-25 form must be completed and submitted to the Library of Virginia to formalize the Records Retention Officer designation. This form and accompanying instruction can be found at

<http://www.lva.virginia.gov/agencies/records/forms.asp>.

Board of Directors Meetings

The BOD should meet on a monthly basis, and minutes of each meeting must be prepared and maintained by the District in accordance with FOIA. Minutes should capture the essence of the meeting and the decisions reached, not the content of every conversation. The minutes must document attendance, any motion that is made and by whom, whether it is seconded and by whom, the motion, discussion of the motion, and the final vote or disposition. The minutes must be signed by either the Secretary or Chair or both and approved by the District BOD at the following meeting.

Committees

All committees established by a District must prepare and maintain committee meeting minutes in accordance with FOIA. Each time a committee meets, a committee report should be presented to the BOD at the BOD meeting following the committee meeting. Committee minutes should be

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approved by the committee at the next committee meeting; however, they can be reviewed by the full BOD if no committee meeting is scheduled for the near future, in which case they should be signed by the committee Chair.

Finance Committee

Each District is expected to have a Finance Committee (or group charged to fulfill this function) and a Treasurer to oversee all financial activities of the District and advise the BOD in financial matters. Responsibilities of the Finance Committee (or designated group) include the following:

- Review all sources of funding and develop acquisition strategies
- Work with staff to develop budgets and budget reports
- Ensure finances are handled according to generally accepted accounting principles (GAAP)
- Arrange for required audits
- Check the reliability of financial information
- Formulate and recommend policies for consideration by the District BOD (such as a purchasing policy or a check-signing policy)
- Establish a system to ensure prompt, accurate payment of invoices and other financial obligations
- Ensure compliance with surety bond requirements
- Annually review the Desktop Procedures for District Fiscal Operations to ensure the District maintains compliance and fulfills its responsibilities

The Finance Committee (or designated group) should meet at least twice a year to establish a budget and to review financial statements. Minutes of these meetings must be prepared and maintained by the District in accordance with FOIA.

Section III – Accountability

District Directors are responsible for the proper stewardship of all District assets and resources, including direct accountability for actions taken by staff employed by the District and all funds, property, and equipment belonging to the District. Accountability also requires promoting the integrity of staff actions in executing District functions, especially District financial functions.

Proper financial stewardship requires

- accurate and detailed documentation of all financial transactions
- installation of and compliance with proper internal controls
- clearly established policies and procedures and adherence to such
- timely and sufficient corrective actions to resolve known or identified issues
- utilization of all District funds in a manner that best serves the public's interest

Bonding

All employees and BOD members with access to District funds must be bonded. Bonding provided through DCR covers all SWCD Directors, associate Directors, and employees that handle District monies. Bonding guidelines require that District fiscal practices comply with the policies and procedures established in this document.

In dealing with both clients and employees, the District must comply with all federal and state laws established to protect citizens' civil rights and employment opportunities.

Budget Development

As stated in Section II, the Finance Committee should develop a budget for each fiscal year. The budget should include the following elements:

- Consideration of unexpended funds from the previous year as presented in the financial statements and plans for their use
- Projected revenue and expenses
- A detail of the actual revenue and expenses of the previous year
- An estimate of staff and volunteer time and costs to accomplish proposed activities
- A narrative summary that ties planned expenditures to the District's Annual Plan of Work

The budget shall be reviewed and approved by the District BOD and included as part of minutes. The Treasurer should review the budget on a monthly basis and any significant variances between budget and actual revenue and expenses should be researched and reconciled.

Treasurer's Report

On a monthly basis, the Treasurer, working closely with appropriate staff, should prepare and disseminate to the Board the following financial statements and documentation:

- Monthly and year-to-date budget-to-actual expenses by funding source
- Monthly and year-to-date projected-to-actual revenues by funding source
- Notes for any significant budget-to-actual variances or individual transactions

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- Changes in cash
- Anticipated obligations of a material amount
- List of outstanding checks

This information should be used by the District to provide quarterly and annual reports to DCR as required by SWCB policies and grant agreements.

Annual reports should be developed and provided as public record for information regarding accomplishments, financial status, and volunteer support. All supporting documentation (such as records and reports documenting volunteer time and match requirements) must be maintained on file by the District or in accordance with the Library of Virginia record retention schedules.

SWCD Policies

All District-specific policies should be reviewed and approved by the BOD before implementation by staff; updates and revisions to approved policies should likewise be reviewed and approved by the BOD. A comprehensive manual of all approved District policies should be maintained in the District office and all policy updates and revisions approved by the BOD should be reflected in board meeting minutes

Districts should conduct an annual review of all District policies and record the review/approval of these policies in Board meeting minutes. The documented policies should be updated to show the most current review/revision date listed on each policy document.

Debt/Leases

The BOD must approve any lease agreement to be entered into by the District *prior to the District's making the commitment with the leaser*, and the approval must be documented in District BOD meeting minutes. All lease agreements must be written agreements and should be maintained with District records according to the Library of Virginia records retention policy and schedule.

Soil and Water Conservation Districts are not authorized by the Code of Virginia to incur debt. All property must be acquired through full purchase or lease agreements.

Audits

All Districts are required to accommodate an audit of accounts of receipts and disbursements on an annual basis by the Auditor of Public Accounts or a certified public accountant approved by Auditor of Public Accounts in accordance with the *Code of Virginia* § 10.1-535.

DCR has currently contracted to have each SWCD audited on a two-year rotating basis. Additional audits may be requested by the Virginia Soil and Water Conservation Board or Audit Subcommittee or to meet federal requirements. These audits are designed to gain reasonable assurance of the following:

- The reliability of the financial statements and records

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- The adequacy internal controls
- Compliance with established policies, procedures, generally accepted accounting procedures (GAAP), and applicable laws and regulations for designated funding

To accommodate the significant time constraints on the auditors to perform all designated District audits within the required performance period, Districts should make every effort to provide timely responses and submissions to them. In the event of scheduling conflicts for the proposed District audit period, the District should notify the auditors and DCR as soon as possible to ensure the annual audit schedule is not delayed.

Prior to the beginning of an audit, each District should have completed and have available the following items:

- BOD member listing
- Signed BOD meeting and committee meeting minutes
- Lease agreements
- Debt agreements
- Property (inventory) listing
- Financial statements that roll forward by line item [i.e., (beginning balance) + (receipts) – (disbursements) = (ending balance)]. The current year beginning balance must equal the prior year ending balance in total and by financial statement line item. The statements must agree in total and by line item with the general ledger (e.g. Quick Books)
- Reports submitted to DCR that agree with the financial statements and the general ledger
- Detailed listing of cash receipts that agree in total and by line item with the financial statements
- Detailed listing of cash disbursements that agree in total and by line item with the financial statements
- List of authorized bank signatories
- Bank reconciliations with the bank balance agreeing with the bank statement and the checkbook balance agreeing with the general ledger
- Reserved fund(s) list with balance(s)
- Unreserved fund balance
- Determination of FLSA exempt and non-exempt statuses by position description
- Supporting documentation for all transactions within the audit period (cancelled checks, receipts, letters, invoices, etc.). If cancelled checks are not returned to the SWCD, the District should request printed or electronic bank copies of the cancelled checks.
- Documentation of sources for funds (i.e., local, state, and federal)
- Payroll tax returns and personnel records (IRS Form 941, timesheets, W-4s, personnel files, W-2s, and 1099s issued)
- All additional questionnaire responses, documentation, or account analysis requested by the auditors within the time frame requested

During the course of the auditor's field work and upon completion of the audit, District management will be advised of identified or potential issues of concern and will be given an opportunity to address and correct the issues before the issues become formal findings within the

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auditor's final report. At the end of the auditor's field work and/or upon completion of the audit, an exit interview will be conducted. It is expected that District staff (in person) and a Director (in person or by phone) will participate in the exit interview. DCR Conservation District Coordinators (CDC) will participate (in person or by phone) when schedules allow. Upon completion of the audit, DCR and the SWCB will be advised of identified or potential issues of concern.

The District Board must act upon any findings that are formalized in the final audit report, as directed by the SWCB, the Audit Subcommittee of the SWCB, and DCR. If the audit report identifies any significant areas of concern or material weakness, more frequent audits of the District may be required by the Audit Subcommittee of the SWCB and DCR.

Records Management

Records generated or received, regardless of format (electronic or hard copy), within the course of a District's operations must be maintained in accordance with the Library of Virginia records retention schedules available at

http://www.lva.virginia.gov/agencies/records/sched_local/index.htm, as well as any federal or funding specific requirements. The Records Retention Officer is responsible for ensuring that all supporting documentation is maintained according to the record retention policy.

Records include, but are not limited to the following:

- General ledger reports at the summary and detail levels
- Cancelled checks or check images from the bank
- Check registers
- Invoices or other support as applicable for disbursements
- Receipt logs
- Check copies for receipts
- Letters or other support as applicable for receipts
- Personnel folders including salary approvals
- Bank statements and reconciliations
- Payroll records
- Leave records
- Meeting minutes
- Financial reports
- Contracts
- Grant agreements
- SWCD policies

Electronic files, including the general ledger system (i.e., QuickBooks), should be backed up on a regular basis (most auditors would recommend at least weekly, preferably daily). The backup should be maintained either in a fireproof, heat-resistant cabinet or safe at the District office or at an off-site location (e.g., bank lock box or post office box).

Section IV – Cash Control

Bank Accounts and Signatories

The opening of all bank accounts, as well as a list of all check signatories, must be authorized by the BOD and recorded in the District BOD minutes. Check signatories should be updated whenever a signatory is added or deleted.

Insured Accounts

All funds are to be maintained in fully insured bank accounts. Generally, the Federal Deposit Insurance Corporation (FDIC), through the local bank, provides such insurance coverage. Each bank the SWCD does business with should be informed that the District accounts contain public funds and should be insured accordingly.

All accounts should be interest-bearing to the extent possible. The District shall maintain a separate bank account for Agricultural BMP Cost-Share Program funds. Interest earned from this account must be applied to additional program practices and expenses and must be logged in the Agriculture BMP Tracking Module.

All cash should be maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, § 2.2-4400 et seq. of the *Code of Virginia* and covered by FDIC (The following website may be helpful with addressing questions that pertain to the Virginia Security for Public Deposits Act: <http://www.trs.virginia.gov>). Under the Act, banks holding public deposits in excess of the amounts insured by FDIC (\$250,000) must pledge collateral in the amount of 50% of the excess deposits to a collateral pool in the name of the State Treasury Board. The State Treasury Board is responsible for monitoring compliance with the collateralization and reporting requirements of the Act and for notifying Districts of compliance by banks. Accounts maintained in National Credit Union Accounts (NCUA) should be also be insured up to \$250,000. Districts that maintain investment funds with a broker should be insured by Securities Investor Protection Corporations (SIPC) up to \$500,000.

To ensure all SWCD bank accounts are classified by the bank as public funds and secured by the Virginia Security for Public Deposits Act (SPDA), SWCDs are required to verify all bank account information through the Virginia Department of Treasury SPDA Account Balance Search system (<https://trs.virginia.gov/Operations>) quarterly. . If a District finds that its account(s) has not been reported or if balances are reported inaccurately, it should address the issue with the financial institution.

In accordance with § 2.2-4518 of the *Code of Virginia*, Districts can elect to participate in the IntraFi Network Deposits program (formerly Insured Cash Sweep, or ICS) and Certificate of Deposit Account Registry Services (CDARS), which allow large deposits of funds to be placed across multiple participating institutions in increments below the standard FDIC insurance maximum of \$250,000 so that both principal and interest are eligible for FDIC insurance. Visit this link for more information: <https://www.intrafinetworkdeposits.com/>.

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Districts are also authorized to participate in the Virginia Department of Treasury's Local Government Investment Pool (LGIP). However, cost-share funds must be invested separately from all other districts funds and interest earned on cost-share funds must be applied to program practices and expenses. When funds are transferred from the LGIP they must be transferred into bank accounts that meet the requirements of the Virginia Security for Public Deposits Act. For more information about the LGIP, contact the Department of Treasury at (800) 643-7800 or <https://trs.virginia.gov/Cash-Management-Investments/LGIP>.

Check-Signing Policy

A check-signing policy should be developed and adopted by the District BOD and reviewed annually. Checks issued over \$1,000 shall require dual signatures. All authorized check signers should be approved by the BOD and included as check signatories in the appropriate documentation at the bank. Check signers should sign only checks presented with vouched invoices. Check signers should never sign any check that does not have appropriate documentation or is to be paid to themselves. Check signers should never sign incomplete checks (those where date, payee, or amount is left blank). Electronic or stamped signatures shall not be used for signing checks.

All checks should be preprinted with the name and address of the District and pre-numbered.

The supply of unused checks should be maintained in a locked cabinet or desk at the District office. To safeguard against loss or theft, individuals who have check-signing authorization should **not** have access to the supply of unused checks.

Outstanding Checks

The recipient of any check that has been outstanding for six months should be contacted; if the recipient cannot be contacted, issuance of a stop payment should be considered. If a substitute payment will not be issued, documentation should be made to ensure the original transaction is reversed. If a substitute payment will be issued, all accounting records should be updated to note the change.

Per the Commonwealth of Virginia's Unclaimed Property Act, a check that is outstanding for more than one year must be tracked in a liability account and the amount of the check remitted to the Commonwealth of Virginia per § 55.1-2500 of the *Code of Virginia*. Due diligence must be shown prior to reporting unclaimed property to the Virginia Department of Treasury; see Virginia's Unclaimed Property website <http://vamoneysearch.org/> for additional information, including the required reporting schedule.

Voided Checks

Voided checks should have "VOID" written or stamped on them and the signature lines obliterated to ensure alteration of the check does not occur. They should then be stapled back into the check register. If checks are printed, rather than hand-written, and a check register is not

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maintained, voided checks should be placed in a voided checks file. The transaction/expense related to the voided check should be reversed.

Bank Reconciliations

Bank statements should be reconciled to the District's accounting records on a monthly basis within 30 days of the statement closing date. Bank reconciliations should be prepared by an individual authorized by the District to perform this task, and that person should initial and date each completed reconciliation. Any unrecorded bank transactions identified during the bank reconciliation process (e.g., interest earned or service charges) should be posted in a timely manner (i.e., prior to the next bank statement being received). **A second individual other than the preparer should review, initial, and date the reconciliations and periodically review canceled checks for proper signatures and authority.** When reviewing bank reconciliations, the reviewer should check the prior month's statement and reconciliation to ensure all outstanding items from the previous month have been properly accounted for.

Segregation of Duties

Segregation of duties is an important aspect of a sound internal control system. Proper segregation of duties provides a system of checks and balances so that the functions of one member (employee, Director, or other empowered individual) of the District are subject to review through the performance of interrelated functions of another member. The following list provides examples of adequate segregation of duties:

- Check signers should not have access to the unused check supply.
- One individual should not be responsible for both opening the mail and recording and depositing receipts.
- One individual should not be responsible for approving, recording, preparing, and mailing disbursements.
- Employees or Directors should never be the check signers for payroll and/or reimbursement checks made payable to themselves.
- Bank reconciliations should be performed monthly and reviewed and approved by someone other than the preparer.

Due to the small size of some Districts, it may be unreasonable to expect segregation of all duties as outlined above. Districts should keep in mind that the bookkeeper and BOD members need not be the only people assigned to perform these procedures. Conservation specialists and District managers (program personnel) may also play a key role in the internal control structure. Here are two examples of how program personnel might play a role in segregation of duties:

- The bookkeeper and the program person sign all checks below \$1,000, and the bookkeeper and the Treasurer sign all checks greater than \$1,000.
- A program person provides the review of bank reconciliations performed by the bookkeeper.

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Whenever the size of the District's staff precludes the proper segregation of duties, compensating controls should be established to ensure adequate review and oversight of financial transactions and timely detection of errors and irregularities. In these cases, the BOD may need to provide oversight and independent review functions in the day-to-day financial affairs of the District. Established roles for Board members should be designated for these functions.

Section V – Cash Management

Accounting Method of Cash Basis Versus Accrual Basis

Cash basis – Revenue is recorded when the funds are received, and expenses are recorded when payment is issued. It is easiest to account for transactions using the cash basis since no complex accounting transactions such as accruals and deferrals are needed. Given its ease of use, the cash basis is widely used in small businesses.

Accrual basis – Revenue is recorded when earned and expenses are recorded when incurred. Its use is required for tax reporting when sales exceed \$5 million.

Based on SWCD auditor recommendations, Districts shall maintain their financial records based on a cash basis. This will enable Districts easily reconcile their accounting records with the DCR Attachment E reporting form. For QuickBooks users, this is a simple change in the preferences to the Cash Basis setting and will automatically generate QuickBooks reports that correspond to Attachment E reporting.

Reserve Fund Balances

Each District should limit its level of unobligated reserve funds. Unobligated funds are monies maintained in the District account(s) that may be spent on reasonable business-related purposes by the District. It is unadvisable for any District to accumulate more than 12 months of undedicated reserve funds. Funds beyond this level must be accumulated for specific dedicated purposes (for example, vehicles, equipment, dam maintenance, computers, or funding unanticipated staff severances) as directed by an action of the BOD and recorded in the minutes of the District; these funds are not to be used for routine operating expenses. At the end of each fiscal year, the District should review its reserve funds and determine which funds are to be dedicated for specific future expenses. A list should be maintained of these dedicated reserves and reviewed and updated annually. Public funds from local, state, and federal sources are provided to Districts strictly for performance of conservation, not for savings. DCR will monitor the growth of unexpended funds through grant agreement-required audit reports and report situations of concern to the VSWCB.

Reserve funds can be maintained in CDs or MMAs; however, Districts are also encouraged to participate in the Virginia Department of Treasury's Local Government Investment Pool (LGIP). For more information about the LGIP, contact the Department of Treasury at 800-643-7800 or <https://trs.virginia.gov/Cash-Management-Investments/LGIP>.

Petty Cash Accounts

Petty cash accounts should contain no more than \$100 at any given time, and one individual should be designated as the custodian of the fund. The custodian is the person responsible for properly securing the fund, for approving each transaction, and for ensuring proper documentation (receipt or invoice) is received for each transaction. Petty cash should be used only for small purchases of supplies, food, postage, etc., and its use limited as much as possible.

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A person independent of the petty cash function should perform surprise counts of the petty cash at least twice a year and document these counts to ensure funds are intact. Alternatively, a system may be established in which an individual independent of the petty cash account is responsible for reconciling the account monthly. The reconciliation must be conducted in the presence of the petty cash custodian to maintain proper oversight of the fund; at no time should the custodian allow unsupervised access to the fund. This arrangement can replace the petty cash surprise counts since counting the cash on hand and the supporting receipts is part of the monthly reconciliation process.

Gift Cards

Gift cards are often given to recipients of District awards or winners of competitions (i.e., District Envirothon and poster contest winners and District-level awards for conservation-friendly farms). Gift cards are a form of currency and should be managed with the same sensitivity as cash or checks. A policy should be developed by the Board that includes the following information:

- Which funding source may be used to purchase gift cards (must be allowable under the regulations of the funding entity/award)
- Clear and detailed criteria or categories for the awarding of gift cards, such as for competitions, recognitions, and/or events
- Amounts associated with each criterion or category
- Restrictions on eligibility of recipients
- Required approval for issuance of cards
- Detailed procedures for purchasing and securing cards
- An annual log for purchase and issuance of cards, noting their type, value, and purpose, along with the name of the recipients and the dates awarded
- Procedure for reconciliation of expenses for cards purchased, the log, and the count of cards on hand that is documented, dated, and maintained with the annual log

The purchase of all gift cards should be approved by the Board and recorded in the Board meeting minutes with the purpose and value of each gift card.

Gift cards given to District employees are considered taxable income and should be reported as such to the IRS. For that reason, gift cards are not recommended for employee compensation.

Transfers

When transfers are made between bank accounts, including to open new bank accounts, these amounts should not be reflected as receipts or disbursements for financial reporting purposes. These transfers should be shown in the transfer in/out column on the Attachment E.

Section VI – Receipts Processing

Direct Deposit (EDI)

Pursuant to the State Appropriation Act, all Districts shall be set up to receive electronic payments from the Commonwealth. See Chapter 732: § 4-5.04 Goods and Services H. Electronic Payments: “Any recipient of payments from the State Treasury who receives six or more payments per year issued by the State Treasurer shall receive such payments electronically. The State Treasurer shall decide the appropriate method of electronic payment and, through [their] warrant issuance authority, the State Comptroller shall enforce the provisions of this section.”

Sales

When receipts (cash or checks) are received by Districts, the following procedures should be followed:

Checks

- Each check should be endorsed with a stamp including the phrase “For Deposit Only,” the name of the District bank account, and the bank account number.
- Each check should be immediately recorded in a pre-numbered, three-part receipt book, specifically citing the following information:
 - the name of payer or name associated with the accounts receivable account
 - check number of the check received
 - purpose or fund associated with the receivable
- The three copies of the individual, numbered receipt should be used as follows:
 - Top copy provided to the payer, if present
 - Second copy placed with the deposit documentation maintained in the files
 - Third copy maintained in the receipt book
- Each check should be placed in the secure location or lockbox designated for pending deposits.

Cash

- Cash receipts should be immediately recorded in a pre-numbered, three-part receipt book, specifically citing the following information:
 - the name of payer or name associated with the accounts receivable account
 - the purpose or fund associated with the receivable
- The three copies of the individual, numbered receipt should be used as follows:
 - Top copy provided to the payer, if present
 - Second copy placed with the deposit documentation maintained in the files
 - Third copy maintained in the receipt book
- Cash should be placed in the secure location or lockbox designated for pending deposits.
- ***Cash pending deposits should never be comingled with the petty cash fund.***

In the instance the sales receipts are immediately entered to QuickBooks, a copy of the sales receipt should be immediately printed and given to the payer if present, and a copy should be printed and maintained with the deposit documentation files.

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If the District makes deposits into multiple bank accounts, the pending deposit items should be separately maintained in the secured location or lockbox until the time of deposit.

Any documentation (i.e., letter or check stub) received with the cash or check should be date-stamped when received and maintained in a deposits file. The receipt number should be noted on the supporting documentation.

As an accounting safeguard, each day's receipts should be recorded/logged in the general ledger (i.e., QuickBooks) on a daily basis, and each day's log reconciled to the (cumulative) bank deposit.

Deposits should be made once a week or when the District has collected \$500, whichever occurs first. Deposits should be recorded in the QuickBooks on the day of deposit.

Deposit of checks through a bank's mobile application ("mobile deposit") is prohibited. All checks received by the SWCD should be deposited at the bank and a deposit slip retained with the SWCD's financial records.

Collection of State Retail Sales and Use Tax

As political subdivisions of the Commonwealth, Districts must collect sales tax on sales of their tangible personal property unless such property is otherwise exempt. The *Code of Virginia* and Virginia regulations provide for certain exemptions.

Questions concerning the collection of sales tax and specific instances that may provide exemptions should be directed to the Department of Taxation, Office of Tax Policy, 804-367-8037.

Section VII – Expenditure Processing (Non-Payroll)

Depending on the source of specific funds, there may be restrictions on how the funds are used and required accounting treatment for the funds. ***The BOD and District staff should familiarize themselves with the limitations and requirements for all funds they receive.*** As an example, state and federal funds may not be used to support charitable activities or to purchase alcoholic beverages of any type. Failure to adhere to specific funding regulations may result in a requirement to repay funds used or in ineligibility for future funding awards.

Disbursements are to be made only with proper supporting documentation, such as invoices, receipts, or receiving slips. To prevent double payments of balances, all documentation should be original, not copies. If an original is not available, the copy must be marked on its face with the phrase “certified original” and a note explaining why the original cannot be provided.

A voucher system (or invoice approval system) should require invoices to be vouched (or approved) before the District issues payment. Prior to issuing payments, invoices must be endorsed by two individuals (ideally, the person requesting the disbursement to verify the invoice is legitimate and that person’s supervisor or other authorized individual to verify the requestor has authority to make the request). The Virginia Agricultural BMP Incentives Programs Contract Parts I, II, and III serve as the invoice for payments issued to farmers participating in the Virginia Agricultural BMP Cost-Share Program. An employee expense report with attached receipts serves as an invoice for payment when submitted with appropriate signatures and documentation.

Invoices should be mathematically verified before payment.

To prevent duplicate payment of expenses, invoices should be stamped “PAID” upon payment. In addition, the check number and check date should be written on the invoice.

Ideally, the individual who accounts for cash disbursements (i.e., records the disbursement in the accounting records and/or signs the checks) should not prepare and mail the checks.

A District employee should **never** make personal purchases with District funds or use the District’s tax-exempt status for personal purchases.

Disbursements should be recorded in the checkbook and/or QuickBooks when the check is written. Individual disbursements should be recorded in the general ledger (i.e., QuickBooks) on a weekly basis.

Online Bill Paying

Generally, authorizing an individual to make a direct withdrawal from the bank account to settle a claim provides an opportunity for abuse of the payment system. Given the limited number of personnel and the limited opportunities for segregation of duties and internal control, the use of online bill payment is discouraged. It is preferred that all online bill payments be made with the

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District credit card, following all rules and reconciliations required by the District's credit card and purchasing policies.

If the circumstances dictate and there is no other viable option – including use of a District credit card – the controls surrounding this type of transaction should be carefully considered.

Important elements of the control system should include the following:

- Documented justification why no other payment option is available
- Two approvals on the invoice prior to initiating the online payment
- Processing or transmitting of the online payment by a third individual
- Attaching a copy of the online payment confirmation to the invoice
- Careful review of all bank statements with special scrutiny given to the propriety of any direct withdrawals from the bank account

Larger organizations that utilize online payments typically have one person initialize the payment of the transaction and another person review the online transaction using the bank's software prior to actually releasing or transmitting the payment. Banks may provide a chip or electronic token that offers a dynamic code to enter prior to releasing a transaction. Banks may call an authorized individual prior to releasing larger online payments. While sound internal controls can be implemented around online payments, building adequate controls in a local District with limited staff might be challenging.

Virginia Agricultural Cost-Share Payments

Once the District BOD has approved cost-share practice(s) for funding, the practice(s) have been certified as installed, all required documentation has been received by the SWCD (receipts, invoices, nutrient management plans, etc.), and Part III of the contract has been signed by all required parties, the District should pay promptly (within 30 days). Districts must retain supporting documents (i.e., receipts for materials) and clear documentation to justify the amount of payment (i.e., payment calculation sheet) as part of the cost-share file.

The District's QuickBooks accounting records, the Agricultural Cost-Share Tracking Program ledgers, and the Attachment E reporting form should all reconcile before submission of quarterly reporting to DCR.

Two-Party Checks

Districts are allowed to issue two-party checks only for cost-share payments when the two parties consist of the participant and a lending institution. For participants receiving loans from the DEQ Ag Loan program, an assignment of payment to Virginia Resources Authority (VRA) form must be submitted to the District to allow payment directly to VRA upon completion of the practice.

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IRS 1099 Forms

Districts must provide an Internal Revenue Service (IRS) Form 1099-G to any individual installing an agricultural BMP with cost-share or other funding sources (such as settlement funds) who receives \$600 or more in cost-share payment(s) in a calendar year. If the payment for a contract is redirected at the participant's request to a certified nutrient management planner or resource management plan developer, then the appropriate 1099-NEC should be issued to the entity receiving the cost-share funds. Districts that issue payments for non-agricultural practices (such as DEQ 319 septic practices and VCAP practices) must issue a 1099-MISC to participants. If the payment for a contract has been assigned to VRA, or is paid out as a two-party check to the participant and a lending institution, the participant must still be the recipient of the appropriate 1099-G or 1099-MISC. Districts must file the appropriate IRS Form 1099 and Form 1096 with the IRS in accordance with IRS regulations. Note: The 1099-NEC may have an earlier filing deadline than the other forms. Be sure to check the IRS website for all applicable filing deadlines each year.

Sales and Use Tax Exemption for District Purchases

Per section § 58.1-609.1(16) of the *Code of Virginia*, Soil and Water Conservation Districts are exempt from paying sales and use tax. All Districts should file Form ST-12, *Commonwealth of Virginia Sales and Use Tax Certificate of Exemption*, with vendors. This form is located on the Department of Taxation website

(<https://www.tax.virginia.gov/sites/default/files/taxforms/exemption-certificates/any/st-12-any.pdf>).

With a tax-exemption certificate, Districts can apply for sales tax exemption at stores from which they frequently purchase supplies. Districts must get tax exemption for all stores that are frequented more than three times in a fiscal year or where any one purchase is \$100 or greater.

Please note that this exemption does not apply to meal and hotel charges. As a political subdivision of the Commonwealth, the SWCD should strive to obtain the state government rate for hotel rooms to the extent possible.

Section VIII – Credit/Debit Card Usage

Debit Cards

State policy prohibits the use of debit cards by any state agency. The District auditors concur with this prohibition due to the potential for fraud. Therefore, the use of debit cards by Districts is prohibited.

District Credit Cards

Districts issuing credit cards to staff or Directors for business purposes must adhere to the following guidelines:

- The BOD must approve the issuance of any credit card to be used by staff and/or BOD member(s).
- Districts should adopt a written credit card policy to establish guidelines for users.
- *Properly documented approval should be obtained prior to any purchase* as required by the BOD-approved purchasing policy.
- A reputable credit card company that does not charge an annual fee and has a competitive interest rate should be used.
- Credit card statements must be mailed directly to the District office.
- Receipts for all charge card expenditures must be turned in to the District office immediately following purchases and the receipts reconciled with line items on the credit card statement before payment can be made.
 - Note: Original receipts should be submitted to the District office; however, scans of the receipts may be made for ease of record keeping and filing. An original receipt or scanned copy should be maintained with the corresponding invoice and/or credit card statement.
 - If receipts are lost, a missing receipts log should be created and filed with the corresponding invoice and/or credit card statement. The log should include the name of the store where the purchase was made, date of purchase, amount of purchase, list of items purchased, purpose of the purchase, and the name of employee or Director making the purchase.
- Before payment is made, the statement reconciliation must be approved by the Treasurer or a Director or employee with check-signing authorization. Each attached receipt or invoice should be reviewed for accuracy and appropriateness before the payment is made.
 - Note: If a staff member with check-signing authorization is completing the reconciliation, the Treasurer or Director with check-signing authorization must also complete a reconciliation to ensure all expenditures are appropriate. The Treasurer/Director reconciliation can be done before or after the payment is made. If this reconciliation is completed after payment, it should be completed within 30 days of the payment.
- The voucher system described in Section VIII will be used to authorize payment of the credit card.
- Expenditures should be made in accordance with procurement guidelines.
- ***Use of the credit card for personal purchases is forbidden.***

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- Payment of the balance of the credit card will be made by the due date in order to avoid unnecessary finance charges or late payment fees.
- Non-compliance with these guidelines will result in, at a minimum, termination of credit card privileges for the abusing staff member or Director.

Section IX – Employee/Director Expense Reimbursements

All personally incurred District expenses shall be reimbursed to the employee or Director through the use of an expense report. At a minimum, the expense report format should include the individual's name, date of submission, signature, and approvals. The body of the form should be multi-lined and columnar so that several individual expenses may be recorded. Columns should include date of incurrence, description, business reason for the expense, and, for use when the expense is mileage, the miles traveled, mileage rate, and dollar amount of mileage reimbursement. The last column should indicate a total of the expenditures for that day with a grand total at the bottom indicating the total to be reimbursed.

Each employee or Director submitting an expense report for reimbursement should adhere to the following guidelines:

Use of Personal Credit Cards

Use of personal credit cards for business expenses:

- Staff or Director use of personal credit cards for business expenses incurred by the individual is permissible, but reimbursement of such expenses will be made by only after submission of a properly completed employee/Director expense report with attached original invoices (not credit card statements).
- Incurred interest, late charges, or other credit card fees charged to the statement will not be reimbursed. It is the responsibility of the employee or Director to request reimbursement through proper channels with appropriate documentation ***prior to incurring such fees***.
- Expenditures should be made in accordance with procurement guidelines and applicable funding regulations.
- Receipts for all expenditures must be attached to the employee/Director expense report and submitted to the SWCD District office in a timely manner (within 30 days of the date on which the expense occurred).
 - Note: Original receipts should be submitted to the District office; however, scans of receipts may be made for ease of record keeping and filing. A scanned copy of each receipt should be maintained with the corresponding expense report.
- The voucher system described in Section XI will be used to authorize payment of the employee/Director expense report. Each attached receipt should be reviewed for accuracy and appropriateness before payment is made.

Non-Travel

- Employee/Director expenditures for business expenses are permissible, but payment or reimbursement of such expenses will be made only after submission of an expense report with attached original invoices (not credit card statements).
- Expenditures should be made in accordance with procurement guidelines.

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- Receipts for all expenditures must be attached to the employee/Director expense report and turned into the SWCD District office in a timely manner (within 30 days of the date of the expense). No reimbursement will be made without a receipt.
 - Note: Original receipts should be submitted to the District office; however, scans of receipts may be made for ease of record keeping and filing. A scanned copy of each receipt should be maintained with the corresponding expense report.
- The voucher system described in Section XIV will be used to authorize payment of the expense report. Each attached receipt should be reviewed for accuracy and appropriateness before payment is made.
- Only business expenses will be reimbursed.
- Abuse of any of the above may result in termination of staff, revocation of authorization to use employee/Director expense reports for reimbursement, and/or further actions deemed appropriate.

Travel

Travel expenses may be paid on per diem or on actual receipts. However, the District select one method so that all travel expenses are paid reliably and consistently; District Directors and staff must all be paid using the same method. The method of payment should be clearly indicated in a District policy.

- Mileage is reimbursable at a rate not more than the federal IRS rate; any instances where the mileage reimbursement rate will be less than the federal IRS rate must be addressed through a BOD-adopted policy. Mileage rates should be revisited by the District BOD when there is an IRS mileage rate change (typically on January 1 of each year) and this should be clearly recorded in the meeting minutes. The maximum reimbursable mileage is miles to and from the approved location less normal commute miles at the federal IRS rate.
- If the SWCD issues reimbursements based on per diem, expenses are reimbursable at the federal per diem rate. Per diem rates should be revisited by the BOD when there is an IRS rate change (typically on January 1 of each year), and this should be clearly recorded in the meeting minutes. The federal per diem rates can be found at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.
- When a Director or employee requests reimbursement via per diem, an appropriate per diem worksheet must be submitted with the expense report. An sample a per diem calculator can be found at <http://perdiemcalc.net/gsa/>.
- If the District issues reimbursements on an actual basis, all receipts must be submitted with the travel voucher reimbursement request.
- All receipts, including hotel receipts, boarding passes, bag fees, must be originals.
 - Note: Original receipts should be submitted to the District office; however, scans of the receipts may be made for ease of record keeping and filing. A scanned copy of each receipt should be maintained with the corresponding travel voucher.
- Meals covered by conference registration fees must be deducted from the applicable per diem.
- Documentation showing which meals are included with registration must be attached to the expense report.

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- The per diem may not be paid in advance of the trip.
- Employees and Directors must submit travel reimbursement documentation (including mileage) to the SWCD office no later than 60 days after incurring the expense.

Section X – Procurement

All purchases by Districts should be made as a result of a competitive and open process that encourages participation by all qualified vendors. All District procurements should be in accordance with the Virginia Public Procurement Act, §2.2-4300 et seq. of the *Code of Virginia* (<https://dgs.virginia.gov/globalassets/business-units/dps/documents/vppa/vppa2023-unofficial-final.pdf>). It is important to note that for the purposes of procurement Districts fall under the local government determination. If you have procurement questions, you can contact a Department of General Services DPS Local Government Account Executive; contact information is listed at <https://dgs.virginia.gov/globalassets/business-units/dps/documents/localgovernment/virginiafullcounties-asof04242018.pdf>.

Every District should have a purchasing policy. The District Finance Committee should abide by a policy for competitive procurement based on dollar amounts of purchases and periodically (at least annually) review and recommend changes to such policy to the District BOD. In most instances, the lowest cost quotation should be accepted; however, in some instances, the lowest cost quotation may not be in the District's best interest. In these cases, a written justification for accepting a higher bid should be maintained with the quotations.

The two sample purchasing policies in the Appendix section may guide District in developing their own policies for the procurement of goods and services.

Surplus Property

Any local public body of the Commonwealth may use the Office of Surplus Property Management (OSPM) to dispose of surplus property. SWCDs that wish to dispose of surplus property should review Chapter 12 of the *Agency Purchasing & Surplus Property Manual* for proper methods of disposal. This manual and other resources can be found on the OSPM website (<https://dgs.virginia.gov/office-of-surplus-property-management/government-entities/declare-surplus-property/>).

Fixed Assets Inventory

An inventory list, including details on all fixed assets (e.g., computers, vehicles, equipment, and copiers) owned and/or controlled by the District, should be maintained and updated on an annual basis or when a change or update is made to the asset location and/or user or custodian. The District may wish to establish a minimum value, such as \$500.00, for items maintained on the inventory list. Regardless of value, all external storage devices for data should be included on the inventory list due to the important data and intellectual property stored on the device. The list should be maintained in a safe, secure location where risk of damage or alteration is reduced. All inventoried items should be tagged and the sequential tag number included on the inventory list.

The list should include a description of the asset, serial number or VIN number if applicable, the date purchased, the cost of the asset, and an estimated useful life of the asset for budgeting

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purposes. The SWCD can maintain other information if it is deemed of value, such as from whom the asset was purchased, warranty information, or replacement value.

An assets inventory list is also helpful for obtaining insurance policies for loss, theft, or damage to the assets. Each SWCD is expected to have its own property insurance plan; these are not provided by the Commonwealth.

Section XI – Reporting (General Guidance)

Individuals, agencies, and organizations that contribute resources (monetary or other) to a District generally have reporting requirements and expectations. Districts are advised to fully understand and accept reporting requirements prior to entering into any contract or agreement with any individual or organization. Reporting expectations (such as reporting frequency, amount of information required, and related details) often vary widely between organizations.

Reporting Expenditures of SWCD Discretionary Funds

Districts receive financial resources from many sources. Funds may be received through government appropriations, endowments, corporate contributions, revenue-generating programs, and many other sources. Funds provided for specific purposes must be accurately tracked and reported according to the requirements of the contributing source, and sufficient documentation must be maintained to support revenues, expenditures, and remaining balances.

However, some contributors allow great latitude in the use of resources provided to a District. When several sources of “discretionary” funds are combined in a single account to cover operating costs of a District, it becomes difficult to discern remaining balances from specific source of funds at the close of a report period. If a contributor does not provide specific requirements for or limitations on how a contribution must be spent, Districts should adopt an expenditure process they can document and apply consistently.

Examples of procedures a District may adopt to assign costs from discretionary funds (depending on requirements of the funding sources) are as follows:

- Spend funds appropriated by state sources first, until depletion.
- Spend funds appropriated by the local government(s) first, until depletion.
- Spend revenues generated by District rental/sales programs first, until depletion.
- Split expenditures equally among fund sources (for any given report period).
- Assign disbursement amounts to funding sources based upon the relative amount of funds contributed. For example, if state contributions are twice the amounts contributed by local governments, the relative amount of disbursements would be assigned accordingly to state and local sources.

In fact, any allocation method may be used to allocate costs between operational funding sources, as long as the method is documented so the auditors can recreate the final results reported by the SWCD.

Districts have significant latitude in assigning costs to funds issued to them by DCR. It is an acceptable practice to spend state funds first, until that source is depleted, before assigning remaining costs to other fund sources. It is also appropriate to assign costs to all operational funding sources relatively based on the amounts of their contributions to the SWCD.

Districts should be aware that contributors, regardless of the individual or organization, want assurance that their contributions are used in an appropriate, productive manner. Districts that

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adopt the procedure of expending state funds first for discretionary operational expenses will generally reflect remaining balances in other sources, such as local government contributions, which may accumulate over time. Using this example, local government representatives may reasonably question why their contributions are not being expended and, more fundamentally, whether they should continue appropriations to the District. The example is intended to illustrate the need for careful planning and adoption of procedures that are appropriate for each particular District and meet the expectations of contributors to its programs and services.

DCR Attachment E – Quarterly Reports

According to guidance contained within the annual agreements between DCR and each SWCD for financial assistance to support District operational and administrative expenses and delivery of the Virginia Agricultural BMP Cost-Share (VACS) program, Districts must complete and submit a correct and accurate financial report to DCR on a quarterly schedule. Each quarterly report must be signed by the report preparer and the District Treasurer. If the preparer also serves as the Treasurer, or if the Treasurer is not available, then a Director with check-signing authority must sign the “Approved By” section of the report. The report, with original signatures, must be submitted to the CDC; a copy of the signed report should be maintained in the District office as part of the District financial records. The report is contained within each DCR/SWCD grant agreement as Attachment E.

It is the expectation of DCR that financial information contained within the Attachment E report correlate with District financial records (Cash Balance Report, Profit and Loss Report, and monthly reconciliations). This applies to all funds made available to a District from all sources. All funds should be properly documented under the corresponding funding category of the Attachment E. For example, DCR grant-issued funds are to be documented under the “State” category, federal grants issued by DEQ or other organizations should be categorized as “Federal,” and funds issued to the District from local governments should be categorized as “Local/Other.” Other funding sources, such as roundtables and the Virginia Conservation Assistance Program (VCAP), should also be documented under the “Local/Other” category of the Attachment E. If a District is unsure how to categorize a new funding source the preparer should seek guidance from their CDC or the SWCD Liaison.

It is also an expectation of DCR that the flow of financial information from one electronic Attachment E quarterly report to the next is consistent. This means that ending balances reported at the close of any quarter become beginning balances for the start of the quarter that follows. The electronic Attachment E that combines the four quarterly reports for a fiscal year should provide an accurate statement of the receipts, expenditures, and remaining balances in a manner that is consistent with other financial records maintained by the District.

If a District needs to correct an amount improperly reported on the Attachment E, the adjustment should be made in the current quarter to correct the balance on the Attachment E going forward. A clearly written memo explaining the adjustment should accompany the Attachment E, be submitted to the CDC at the time of Attachment E submittal, and be maintained in the District file for audit purposes.

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DCR Attachment D – Budget Template Exercise

The Attachment D – Budget Template exercise was developed in 2012 by a stakeholder advisory group (SAG) that was tasked to examine the funding needs for the administration and operation of SWCDs. The template has proven useful advocacy for demonstrating financial need to budgetary decision makers at the Department, Secretariat, and Gubernatorial and General Assembly levels. In recent years, it has also helped guide the Department in review and revision of the base technical assistance funding allocations. Bi-annually, SWCDs are asked to complete the template by estimating the full financial needs of the District. Each year the exercise is required, DCR provides Districts with the template document, instructions for completion, and estimated cost-share allocations to use to estimate financial needs.

The Attachment D – Budget Template exercise is a biannual grant deliverable and should be completed only after careful consideration of District financial needs. The Budget Template must be reviewed and approved by the District Board with the approval documented in Board meeting minutes. It must also be signed by a Director before being submitted to DCR.

Section XII - Federal Funds Requirements

Districts and the federal government enter into grant agreements when Districts receive federal funds related to a specific grant. Districts must abide by and follow federal requirements when they receive federal funds from any grantor. Each grant agreement should be reviewed and signed by the chair of the District BOD. An individual at the District should be responsible for reviewing the grant agreement and understanding the grant requirements. This same individual should be responsible for ensuring these requirements are met and that the District is in compliance with the grant agreement.

Fourteen compliance requirements are typically attached to federal funding. However, only nine of these apply to Soil and Water Conservation Districts. Districts should document compliance with each requirement. The applicable compliance requirements are as follows:

Activities Allowed or Not Allowed

Requirement

- Federal funds are expended only for allowable activities.

Control Activities

- Review the grant agreement to determine activities that are allowable under the grant.
- Segregate duties adequately for review and authorization of costs.

Allowable Costs/Cost Principles

Requirement

- Costs of goods and services charged to grants are allowable and in accordance with the applicable cost principles.

Control Activities

- Review the grant agreement and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 to determine allowable costs.
- Per 2 CFR Part 200, include only direct costs chargeable to federal awards, such as the following:
 - Compensation of employees for the time assigned specifically to performance of award-funded activities
 - Costs of materials acquired, consumed, or expended specifically for the purpose of award-funded activities
 - Equipment and other approved capital expenditures
 - Travel expenses incurred specifically to carry out the award-funded activities
 - Adequate segregation of duties in review and authorization of costs

Cash Management

Requirements

- Funds are requested only when needed and are spent within a reasonable period of time after receipt.
- Interest earned on advances are reported/remitted as required.

Control Activities

- Monitor expected versus actual cash disbursements of federal awards.
- Ensure any interest earned on federal funds is recorded in the applicable program and returned to the granting agency or spent in accordance with the requirements of the applicable program.

Equipment and Real Property Management

Requirement

- Proper records are maintained for equipment acquired with federal awards, equipment is adequately safeguarded and maintained, disposition of any equipment or real property is in accordance with federal requirements, and the federal awarding agency is appropriately compensated for its share of any property sold or converted to non-federal use.

Control Activities

- Maintain accurate records on all acquisitions and dispositions of property acquired with federal awards.
- Place property tags on all equipment.
- Ensure that property records contain description, source, titleholder, acquisition date, cost, percentage of federal participation in the cost, location, condition, and disposition data.

Matching

Requirement

- Matching requirements are met using only allowable funds or costs that are properly calculated and valued and not used to match other funding sources.

Control Activities

- Review the grant agreement to determine matching requirements and which funds may be used as matches.

Period of Availability of Funds

Requirement

- Federal funds must be obligated and fully expended during the established performance period and documentation submitted for reimbursement by the established deadline.

Control Activities

- Review the grant agreement to determine the period during which funds must be used.

Procurement

Requirement

- Procurement of goods and services is made in compliance with the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.318-.326 and Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR 200 Appendix II.

Control Activities

- Review Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.318-.326 and Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR 200 Appendix II to become aware of the requirements.

Program Income

Requirement

- Program income is earned, recorded, and used in accordance with program requirements per Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.307. Program income is gross income directly generated by a federally funded project.
- Per Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.80, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income, except as otherwise provided in

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federal statutes, regulations, or the terms and conditions of the federal award. Program income does not include rebates, credits, discounts, and interest earned on any of these.

Control Activities

- Identify generators of program income through inquiry of granting agency and the grant agreement.
- Ensure program income is properly recorded as earned and either deducted from outlays, added to the project budget, or used to meet matching requirements. Unless specified in the federal agency regulations or in the grant agreement, program income must be deducted from program outlays.
- Generally, program income requires a program income plan that details how the funds will be spent in accordance with the federal grant regulations under the Catalog of Federal Domestic Assistance. Information can be found at <https://sam.gov/content/assistance-listings>.

Reporting

Requirement

- Reports of federal awards submitted to the federal awarding agency or pass-through entity include all activity during the reporting period, are supported by underlying accounting or performance records, and are fairly presented in accordance with program requirements.

Control Activities

- Use the accounting ledger as the basis for all reports.
- Perform supervisory review of reports to ensure accuracy and completeness of data and information.
- Submit an annual report to the DCR by July 15 indicating the total amount of federal funds expended during the prior fiscal year if this is not captured on the Attachment E form. This information is needed to address the Single Audit requirement for disbursements of \$750,000 or greater.

Federal Fund Auditing Requirements

SWCD recipients of federal funds that expend \$750,000 within a fiscal year are required to have an independent annual audit conducted under the Single Audit Act.

Section XIII – Personnel Management

Personnel management is a critical part of a Director's job. This section only briefly describes many of the crucial elements of personnel management. More in-depth information and guidance is provided in the VASWCD Personnel Management Handbook. It is strongly suggested that each Director review the handbook, which is available online at <https://vaswcd.org/personnel-management>.

Personnel Policy

Each District should establish a Personnel Policy that covers the conditions of employment, work hours, fringe benefits including leave policies, personnel management including job descriptions and grievance policies, travel policies and other pertinent District policies. Personnel policies, including position descriptions, should be approved by the District BOD and reviewed and updated at least annually and when employment conditions change.

Both new hires and establishment of new employee positions should be approved by the District BOD and the approval recorded in the minutes. Pay rates of employees should be discussed and approved by the BOD and the approval recorded in the minutes. The District should maintain a personnel file for each employee containing essential data. The ultimate responsibility for hiring/terminating employees and increases/decreases in employee salary rests with the BOD, in close consultation with the District Manager/Executive Director when such positions exist within the structure of the District. Use of an Employee Pay Action Approval Form is required.

Hiring a New Employee

Individuals applying for District jobs should complete an application. Once the BOD selects the individual it desires to employ, in close consultation with the District Manager/Executive Director when such positions exist within the structure of the District, a letter stating the position, job description, salary, and FLSA exempt or non-exempt status should be prepared and sent to the individual, with the District maintaining a copy. The letter should include a signature line for the individual to sign indicating acceptance of the position and the stated salary. If the individual accepts the position, the District should include the signed original in the employee's personnel file.

Orientation

All employees should receive an initial orientation when they begin employment with the District and additional training and instruction necessary to perform their duties. The initial orientation should include the following:

- Training in specific District policies and fiscal procedures
- Information on conservation issues
- Precise job duties, as determined by the District BOD and District Manager/Executive Director
- Clear explanation of the roles and responsibilities of the BOD and staff

Fair Labor Standards Act (FLSA) Exempt/Non-exempt

Each District personnel policy should specifically address the provisions of the Fair Labor Standards Act (FLSA). The FLSA governs whether individual employees are compensated for overtime hours worked based on their assigned primary duties. SWCDs should test each position description on a periodic basis (no less than every three years) to determine exempt or non-exempt status. Tests should also be performed when changes are made to job descriptions and/or salaries. Records of the tests should be maintained in the position description file and available for review by auditors. Employees must be informed of their position's exempt or non-exempt status when they are hired. For further information on the FLSA, refer to the Department of Labor's website: <https://www.dol.gov/agencies/whd/flsa>.

One District Director, usually the Chair or Personnel Committee Chair, should be identified to serve as the liaison between the staff and the BOD.

Timesheets

Timesheets should be prepared and signed by each District employee and approved by his/her immediate supervisor (or an individual designated by the Finance Committee, this may be a Director, senior staff member, or District Manager/Executive Director) for each pay period. The timesheet should serve as the required documentation for payment of salary. The District should maintain the timesheet (or a copy of the timesheet if a local county processes the District's payroll).

Telework

For SWCDs that allow employees to telework, telework hours should be logged on the employee's timesheet. The District should adopt a formal telework policy and have a telework agreement with each employee.

Payroll and Taxes

If a local governmental entity pays District employee salaries and does not require reimbursement from the District, this is neither a cash receipt nor a disbursement. This transaction has no impact on the accounting records or financial statements, and thus no accounting entry is required.

District recordkeeping should reflect best practices of separating payroll information by Gross Pay, Fringe Benefits, Payroll taxes, etc. A paystub documenting pay and deductions must be given to the employee (see the VASWCD Personnel Management Handbook).

If Districts process their own payroll, they are responsible for filing all required federal and state tax forms and making applicable tax deposits. The 941 (federal withholdings) should be filed on a quarterly basis and tax deposits should be made on a monthly basis. State withholdings information and deposits should be submitted on a monthly basis unless the withholdings are less

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than \$100, in which case the withholdings should be submitted on a quarterly basis, unless otherwise specified by the Virginia Department of Taxation. State unemployment taxes should be remitted to the Virginia Employment Commission on a quarterly basis. The District should be cognizant that the taxing authority may change the timing of these filings and deposits.

It is the responsibility of each District to ensure proper tax withholding and withholding and tax application of various voluntary deductions (such as pensions, cafeteria plans, health insurance, dental insurance and garnishments) occur.

The processing and handling of payroll checks should take place in a manner similar to that described in Section VIII – Expenditure Processing.

Personnel Evaluations

Written evaluations of each District employee's performance should best be prepared on a quarterly or semiannual basis, but, at a minimum, annually. The Personnel Committee or the employee's immediate supervisor should complete the evaluations. The Chair of the Personnel Committee, or other authorized individual, and the employee being evaluated should both sign the evaluation. The Personnel Committee should recommend raises/dismissals (based on the evaluations) to the BOD. The raises/dismissals should be approved/denied at an official BOD meeting and the action included in the minutes. The evaluations as well as the minutes from the BOD meeting where the raise/dismissal was approved/denied should be maintained in the appropriate employee's personnel file. For more information about Personnel Evaluations, reference the VASWCD Personnel Management Handbook (<https://vaswcd.org/personnel-management>).

Salary Adjustments

When a salary change is approved, it is required that an Employee Pay Action Approval Form or something similar be completed, showing the previous rate of pay, the new rate of pay, and the effective date. After action by the BOD, this form should be signed by the chair of the BOD or another designated BOD member or, when given authority, the District Manager/Executive Director, and filed in the personnel files of the affected employee. An Employee Pay Action Approval Form is also required to document bonus payments to employees. Bonus payments are considered compensation by the IRS and as such are subject to payroll and FICA taxes. In addition, any gift provided to a District employee valued in excess of \$25 is taxable. Please consult IRS guidelines for further information on the tax implications of bonus payments and employee gifts. The IRS website can be found at <https://www.irs.gov>.

Personnel Files

Personnel files should also include a signed W-4, VA-4, and I-9 (with required documentation attached). These documents should be obtained prior to first day of employment. W-4s and VA-4s should be updated at least annually for each employee or upon employee request. All new hires must be reported to the Virginia New Hire Reporting Center. Information can be found at <https://va-newhire.com/>.

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SWCD Employee vs. Independent Contractor

The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. The earnings of a person who is working as an independent contractor are subject to Self-Employment Tax.

An independent contractor is generally self-employed. The Self-Employed Tax Center provides additional information.

A person is not an independent contractor if he/she performs services that can be controlled by an employer (what will be done and how it will be done). This applies even if the person is given freedom of action. What matters is that the employer has the legal right to control the details of how the services are performed.

If payment of more than \$600 to a single contractor occurs in a year, the District must issue a 1099-MISC declaring the amount paid for the contractor's services and submit a 1096 and government copy of the 1099-MISC to the Internal Revenue Service by January 31st of the following year.

If an employer-employee relationship exists (regardless of what the relationship is called), the person performing the work is not an independent contractor and earnings are generally not subject to Self-Employment Tax.

However, earnings as an employee may be subject to FICA (Social Security tax and Medicare) and income tax withholding.

XIV – Appendix A

The following pages contain sample policies and forms that Soil and Water Conservation Districts are encouraged to adopt and implement. The policies and forms are only templates and should be customized to fit the unique nature of each District. Neither DCR nor the Commonwealth of Virginia requires that these sample policies be adopted exactly as presented; however, at minimum, Districts are expected to adopt policies that outline proper procedures for the following topics: purchasing, vehicle use, credit card usage, and check signing.

Sample 1 – Purchasing Policy

It is the intent of the District that all purchases be made as the result of a competitive and open process that encourages participation by all qualified vendors. It is also the District's intent that all District procurement be in accordance with the Virginia Public Procurement Act, § 11-35 of the *Code of Virginia*.

The following guidelines set forth the District's policy for competitive procurement, based on the dollar amount of the anticipated purchase. It is intended that the lowest cost quotation will be accepted. However, should the District determine that acceptance of the least costly price is not in the District's best interest, a written justification for accepting an offer other than the low bid must be prepared and maintained as the record of District action with the quotations.

The District's annual budget is developed to cover anticipated purchases. If sufficient funds do not remain in a particular budget sub-category to cover a purchase, this must be brought to the attention of the Board of Directors (BOD) by providing a budget vs. actual report. If sufficient funds do not remain under the main category heading (i.e., total budget for Educ, PR & Youth), the BOD must first authorize the purchase and/or amend its annual budget.

Accounting Procedures: All District checks greater than \$_____ must have two signatures. Two individuals must approve each invoice (a Director and employee other than the one who prepares the payment/check).

Credit Card Policy: All purchases must be made in accordance with the limitations of this policy. District credit card(s) may be used by District staff only for the purchase of items needed for operations and to carry out District programs. Credit card(s) may be provided for use to the Office Administrator, Conservation Specialist and/or Education Specialist. Credit card purchases will be consistent with the approved budget. Non-budgeted purchases will be made in accordance with the District's purchasing policy.

No personal items will be purchased using the District's credit card.

Receipts for all purchases must be turned in to the Office Administrator when the purchase is made. This is the responsibility of the staff member making the purchase.

When the credit card statement is received, the Office Administrator or designated staff member must check each charge against the receipt and code each purchase according to the chart of accounts. A District Director and an employee other than the one reconciling the statement must also review and initial each credit card statement, with receipts attached.

The following serve as guidelines for procurement of goods and services:

- **Purchases less than \$600** – District officials and/or staff will procure goods and services using sound business practices and endeavor to obtain the best product available for the lowest cost.

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- **Purchases between \$600 and \$1,000** – Quotations shall be sought, where practical and available, from at least three vendors. These quotations may either be in writing or by telephone. In either case, all quotations must be maintained on file for subsequent review and inspection. If three quotations are not available, the circumstances must be documented and retained on file.
- **Purchases greater than \$1,000** – At least three written quotations (or sealed bids) must be obtained for these purchases. If three quotations (or sealed bids) are not obtained, the circumstances must be documented and retained on file. The BOD, a committee, or those authorized by the BOD must review quotations or bids. The decision to purchase must be recorded in the minutes.

In the case of an emergency (such as securing a contractor for work on a flood control dam) when obtaining three written quotations (or sealed bids) is not possible, the employee or other individual(s) securing the service/purchase must contact one or more Director for permission to proceed, followed by written documentation of the circumstances involved in securing said service/purchase. This action shall be brought to the attention of the BOD at its subsequent meeting and recorded in the minutes.

Inventory – An inventory list must be developed and updated on an annual basis. This list must be maintained in a safe, secure location where risk of damage or alteration is reduced.

The inventory list should include details on all fixed assets (e.g., computers, vehicles, and equipment) owned and/or controlled by the District whose purchase price is \$500 or more. Any item with a purchase price of \$500 or more must be maintained on the inventory list until it is disposed of in one of the ways listed below. All inventory items should be tagged and the tag number included on the inventory listing. The net asset should be included for each item on the inventory list.

Disposal of District Property – The following serve as guidelines for the disposal and removal from inventory of District property:

- Trade in on a replacement or acquisition of similar property
- Advertisement for sale by receiving bids
- Advertised public auction
- Donation to a non-profit organization
- Other method as declared by the BOD

No tangible property of the District with a value greater than \$ _____ may be sold or otherwise disposed of by the District without authorization by the BOD, taken and recorded by an action of the BOD during a monthly or other public meeting of the District.

Chair

Date

Sample 2 – Purchasing Policy

I.III.5. PURCHASING POLICY

The following guidelines set forth the District's policy for competitive procurement based upon the dollar amount of the anticipated purchase. It is intended that the lowest cost quotation be accepted; however, in some instances, the District may believe that the least costly price is not in the District's best interest. In this case, a written justification for accepting a higher bid must be maintained with the quotations.

Before any purchase is initiated, the item being procured must have been included in the District's annual budget. Additionally, sufficient funds must remain in the particular budget category to make the purchase. If either of these criteria is not met, the Board must first authorize the purchase and/or amend its annual budget.

In accordance with the Virginia Public Procurement Act (VPPA), the District has adopted small purchase procedures not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and nonprofessional services if the aggregate or sum of all phases is not expected to exceed \$100,000. The limit for professional services is \$80,000. Such small-purchase procedures shall provide for competition whenever practical.

Price quotations will be solicited for goods and services requested based on the following guidelines:

- PURCHASES UNDER \$2,500 IN VALUE – Procure goods and services using sound business practices and will endeavor to obtain the best product available for the lowest cost.
- PURCHASES BETWEEN \$2,501 AND \$10,000 IN VALUE – Solicit at least three telephone, catalog, electronic, or written quotes. Posting of notice on an appropriate website is encouraged.
- PURCHASES BETWEEN \$10,001 AND \$30,000 IN VALUE – Solicit at least three electronic or written quotes. Written solicitation and posting of notice on an appropriate website are encouraged.
- PURCHASES BETWEEN \$30,001 AND \$100,000 (or \$80,000 for professional services) IN VALUE – Solicit, in writing, four written quotes. Posting of notice on an appropriate website is encouraged.

Competitive sealed bidding or competitive negotiations may be required for amounts less than \$100,000 for goods and nonprofessional services and \$80,000 for professional services, at the discretion of the District Board. VPPA procedures for formal competitive sealed bidding or formal competitive negotiations, as applicable, are required for all purchases above these thresholds unless specifically exempted.

Term Contracts: The District may elect to establish term contracts for goods and/or services that are purchased on a repetitive basis. Term contracts are established through the competitive sealed invitation for bid (IFB) or competitive negotiation (request for proposal, RFP) process.

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Purchases made through term contracts may exceed the established thresholds defined elsewhere, as these contracts have been competitively procured. Term contracts must be approved by the Board of Directors.

Cooperative Procurement: The District may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, state or federal agencies, public institutions, or localities for the purpose of increasing efficiency or reducing administrative expenses in any acquisition of goods, services, or construction. The District may purchase from another public body's contract even if the District did not participate in the RFP or IFB if the RFP or IBF specified that the procurement was being conducted on behalf of other public bodies. Cooperative procurement must be in accordance with VPPA §2.2-4304 Section A.

Emergency Procurement: In the case of an emergency (i.e., securing contractor for work on a flood control dam) when obtaining multiple written quotations or sealed bids is not possible, the employee or other individual(s) procuring the service/purchase should contact one or more Directors for permission to proceed, followed by written documentation of circumstances involved in procuring said service/purchase. The procurement should be made with such competition as is practicable under the circumstances. This action must be brought to the attention of the Board of Directors at its subsequent meeting and recorded in the minutes. Public notice of an emergency contract award should be posted on an appropriate website.

Sole-Source Procurement: Upon written determination that there is only one source practicably available for the product or service to be procured, a contract may be negotiated and awarded to that source without competition. Public notice of a sole-source contract award must be posted on an appropriate website.

Sample – Vehicle Use Policy

Purpose

The purpose of this policy is to set guidelines for the use of District-owned vehicles. The District (SWCD) maintains an interest in providing for the official transportation needs of District personnel and/or Directors. The District seeks to maintain quality, safe transportation for such use. Thus, proper use, care, and supervision of District-owned vehicles are required. Drivers must be licensed to operate the vehicles they use; only properly maintained vehicles will be made available, and the transportation program will be supervised and administered by both the District manager (or other designated individual(s)) and the District Board of Directors (BOD).

Vehicle use and responsibilities: Drivers must practice defensive driving techniques including anticipating and observing the actions of other drivers and controlling the vehicle in a manner to avoid accidents. When operating the vehicle, drivers must be aware that averting their eyes from the road may cause or contribute to an accident. Drivers should use best judgment when changing climate control settings, using the radio, or accessing other settings on the vehicle's dashboard. Operation and maintenance of District vehicles needs to be assigned to a staffer by District Manager or District BOD.

Responsibilities of drivers: Use District-owned vehicles for official business only. Completion and submission of a vehicle mileage report is required. Items tracked could include date, driver, destination, mileage in, mileage out, and grand total of miles for the month. All gas receipts must be turned in to the Administrative Secretary on a monthly basis. It is the responsibility of each individual driver to observe all motor vehicle laws of Virginia. Under no circumstance may a District employee operate a vehicle while under the influence of intoxicating beverages, drugs, or other substances.

Responsibility of District BOD: It is the responsibility of the District to guarantee employees possess a valid driver's license prior to authorizing use of a District vehicle.

Policy

A. Licensure: Persons operating a District-owned vehicle must be licensed in Virginia to operate the type of vehicle they are using.

- Vehicle operators must show a valid license to the District Manager or BOD prior to obtaining initial authorization to use any vehicle owned by the District.
- Vehicle operators must read and sign the Vehicle-Use Policy prior to obtaining initial authorization to use any vehicle owned by the District.
- Authorized vehicle operators must immediately notify the District Manager and/or District BOD if their license has been suspended or revoked.
- During June of each year, the District Manager or BOD will review the driver authorization list to ensure it is current and to ensure all vehicle operators are driving under a valid license.

B. Conditions of Use: Persons violating conditions of use may be subject to disciplinary action. The District Manager and/or District BOD will monitor all conditions of use.

1. District-owned vehicles are to be used for official business only.

- Passengers – Passengers who are not on official District business may not operate or ride in a District-owned vehicle at any time, unless authorized by the District BOD or their designee(s).
- Hitchhikers – Hitchhikers may not be transported in District-owned vehicles at any time.
- Use for obtaining meals and other necessities – District-owned vehicles may be used to obtain meals and/or other necessities while on official travel.
- Out-of-state travel – The District BOD must approve all out-of-state travel using a District-owned vehicle.

2. General Vehicle Operating Rules

- Drivers must obey all traffic regulations, including posted speed limits.
- All operators and passengers must wear seat belts at all times while traveling.
- Alcohol and drug use – Alcohol and illegal drug-use is prohibited while traveling in a District-owned vehicle. Persons found in violation of this rule are subject to immediate termination. (Also, authorized vehicle users are advised to carefully consider whether or not to drive a District-owned vehicle when taking certain prescription drugs.)
- Smoking – Smoking in a District-owned vehicle is strictly prohibited.
- Adverse weather conditions – Weather conditions must be evaluated and travel should be postponed when conditions are hazardous. (This includes fog, heavy rain, snow, ice, high winds, etc.)
- Keys/credit cards – Under no circumstances should keys be left in a District-owned vehicle when not in operation. District credit cards should not be left where they are visible inside the vehicle but rather should be maintained in the glove compartment.
- Parking/security considerations – District-owned vehicles should not be left on non-residential streets or highways overnight unless required due to mechanical failure. Towing costs for improper parking are the responsibility of the driver.
- Fines/parking citations – Any fines and parking citations incurred by the driver are the responsibility of the driver and not the District. Persons incurring fines for traffic violations must report such circumstances to their supervisor as soon as is practically feasible for conveyance to the District BOD and may be subject to disciplinary action by the District, which could include loss of privileges to use District-owned vehicles.
- Personal property – Personal property left in District-owned vehicles when not in operation is the responsibility of the operator/passenger. Loss or damage to personal items is the responsibility of the operator/passenger.

3. Maintenance and Care of District-owned Vehicles

- The District Manager and/or BOD will be responsible for the monitoring and control of the routine maintenance and repair of vehicle(s).

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- It is the responsibility of all vehicle operators to routinely check the vehicle(s) to ensure proper oil level, water and antifreeze for radiators, battery, wear on belts, proper inflation of tires, etc. This service should be performed at time of fueling.
- If maintenance repairs are required, the District Manager and/or District BOD should be notified and consulted as to the procedure for maintenance.
- When returning a District-owned vehicle, all garbage must be removed from the vehicle, including the cab and bed areas.
- Personnel will share the following cleaning responsibilities: The exterior of the vehicle will be washed on an as-needed basis, the interior will be vacuumed on an as-needed basis; and windows will be cleaned as often as needed.

4. Insurance

- The District maintains vehicle insurance coverage through _____.
- Insurance information can be found in the vehicle's glove compartment and on file in the District office.

5. Vehicle Accidents

- Any driver using a District-owned vehicle who is involved in an accident should contact the police immediately.
- The driver should obtain the name, address, phone number, and operator's license number of all parties involved in the accident or witnesses to the accident.
- The driver should refer to the insurance card found in the glove compartment of the vehicle. Refer to instructions on the back of the insurance card and the agent name and contact number found on the front of the card.
- If the vehicle is safely operable, it should be driven to the District office; the District BOD will be responsible for determining a procedure for estimates and repairs.
- If the vehicle is not safely operable, with guidance from the police, the vehicle should be towed to a nearby service facility. The District BOD should be notified and will be responsible for determining a procedure for estimates and repairs.

6. Driving a Privately Owned Vehicle

- A privately owned vehicle may be used on official business if no District-owned vehicle is available or in other special circumstances with the approval of the District Manager and/or District BOD.
- An official Travel Expense Reimbursement Voucher must be submitted with appropriate receipts attached within 30 days of travel to the designated District staff member for payment.

7. Carpooling Related to Trips

If a number of individuals will be attending a workshop, conference or other activity, the District expects that, barring unusual circumstances, District employees attending will car pool using the District-owned vehicle. The District Manager and/or BOD will consider requested exceptions to this policy.

Chair Signature: _____

Date: _____

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Sample Mileage Sheet

DISTRICT _____

VEHICLE MILEAGE LOG

License#: _____ **MONTH:** _____

Year: _____

Vehicle: _____ **PERSON ASSIGNED:** _____

Date	DRIVER'S NAME	DESTINATION	MILEAGE IN	MILEAGE OUT	TOTAL MILEAGE

Sample 1– Credit Card Policy

All purchases must be made in accordance with the limitations of this policy. District credit card(s) may be used by District staff (or other authorized individual(s)) only for the purchase of items needed for District operations and to carry out District programs. Credit card(s) may be provided for use to the Office Administrator, Conservation Specialist, and/or Education Specialist. Credit card purchases must be consistent with the approved budget. Non-budgeted purchases must be made in accordance with the District's purchasing policy.

No personal items will be purchased using the District's credit card.

Original receipts for all purchases must be turned in to the Office Administrator when the purchase is made. This is the responsibility of the authorized individual making the purchase.

When the credit card statement is received, the Office Administrator or designated staff member must check each charge against the receipt and code each purchase according to the chart of accounts. A District Director and an employee other than the one reconciling the statement must also review and initial each credit card statement, with receipts attached.

Chair

Date

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Sample 2– Credit Card Policy

_____ SWCD CREDIT CARD POLICY

Original Adoption Date: _____
Amended Date(s): _____

_____ SWCD has obtained three VISA credit cards from _____, identified as _____ SWCD Card #_____, _____ SWCD Card #_____, and _____ SWCD Card #_____. The purpose of these credit cards is for authorized _____ SWCD employees to make necessary purchases associated with carrying out SWCD programs and office operations.

The purpose of this Credit Card Policy is to ensure that all authorized users understand the procedures and responsibilities associated with the assigned credit card.

Policy and Procedures

Use of the credit card must be controlled and limited to business use only. The credit card may not be used for personal expenses by employees, Directors, or Associate Directors, with or without the intention of reimbursing the SWCD. Any violation will be referred to the _____ SWCD Personnel Committee and/or Finance Committee and appropriate action taken.

- The maximum limit for the three credit cards is cumulative and will not exceed \$5000.
- It is not the intent of this policy that the credit card should displace normal procurement process.
- All purchases must be consistent with the _____ SWCD's current Purchasing Policy and with the approved fiscal year _____ SWCD Budget.
- Debit use of the card is not allowed.
- Cash advances on the credit card are not allowed.
- Individual employees will be assigned a business credit card, for which each is responsible.
- The following purchases may be made with the credit card, taking into consideration the current Purchasing Policy and approved SWCD Budget:
 - Educational Program supplies
 - Gas and routine vehicle maintenance
 - General operating expenses
 - Lodging
 - Meals outside _____ County(ies) (excluding alcohol)
 - Office equipment and repairs
 - Postage

Other purchases must be approved by the _____ SWCD Treasurer or a voting member of the Board of Directors (BOD).

- It is the responsibility of the individual user to obtain transaction receipts each time the card is used. All receipts must be submitted to the Administrative Secretary in a timely manner. Either the signature or initials of the employee must be written on the receipt. Failure to do so may result in an employee being responsible for disputed charges.
- Should a receipt be lost, the individual making the purchase should immediately attempt to acquire a second receipt from the merchant. If a second receipt is not available, the individual must provide a signed affidavit indicating the date and approximate time of purchase, name of merchant, and the amount of the charge. The Treasurer and/or Budget

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Committee must determine if the individual is personally responsible for the associated charges or if the SWCD will authorize payment.

- When using the credit card for Internet purchases, individual users should ensure that the site utilizes industry-recognized encryption transmission tools.
- When the credit card statement is received, the Administrative Secretary shall check each charge against the receipt and code each purchase according to the QuickBooks Chart of Accounts. A SWCD Director must also review and initial each credit card statement, with receipts attached. Payment of the balance of the credit card will be made by the due date in order to avoid unnecessary finance charges or late payment fees. A copy of the statement must be included with the monthly Treasurer's Report submitted to the BOD.
- Validation and safekeeping: The cardholder (____ SWCD) must sign the card(s) immediately upon receipt. If a card is lost, damaged, stolen, or misplaced, the employee assigned the card and the cardholder (____ SWCD) must notify the credit card company immediately. The Administrative Secretary and Treasurer must be notified immediately of the situation.
- Credit card violations: Credit card violations include the following:
 - Purchase of items for personal use
 - Failure to submit receipts or other back-up documentation to the SWCD's Administrative Secretary in a timely manner for the purpose of establishing accountable reconciliation procedures
 - Failure to return the credit card when an employee is reassigned, terminated, or upon request
- Unauthorized use of the credit card is a violation of the _____ SWCD Personnel Policy and may result in one or more of the following actions: written warning, revocation of credit card privileges, cancellation of purchasing authority, disciplinary action, and termination and/or criminal prosecution. Human error and extraordinary circumstances may be taken into consideration when investigating any violation. The Personnel Committee and/or Finance Committee will be responsible for investigating unauthorized use of the credit card.
- Authorized credit card users must sign an agreement indicating acceptance of all the conditions of use of the credit card, as stated in this document, including possible penalties for unauthorized use.

Authorized users:

- 1) Employee/Title
- 2) Employee/Title
- 3) Employee/Title

Credit Card Authorized User Agreement

I, _____, have read, understand, and accept all terms and conditions of use of the _____ SWCD credit card as stated in the _____ SWCD Credit Card Policy. Assigned Card ####.

Signature

Date

I, _____, have read, understand, and accept all terms and conditions of use of the _____ SWCD credit card as stated in the _____ SWCD Credit Card Policy.

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Assigned Card #####.

Signature Date

I, _____, have read, understand, and accept all terms and conditions of use of the _____ SWCD credit card as stated in the _____ SWCD Credit Card Policy. Assigned Card ####.

Signature Date

Sample 1- Check-Signing Policy

District checks may only be signed by individuals with check-signing authority registered with the financial institution.

Any District check under the amount of \$1,000 may be signed by a single District check signatory, except for the District Manager. The District Manager may not serve as the sole check signer for checks under \$1,000 since he/she also serves in an administrative role at the SWCD.

Any check written for \$1,000 or more must receive two signatures and may be signed by any check signatory as indicated below.

Check signatories and authorized amounts are as follows:

- District Manager may sign only checks over \$1,000 since his/her signature must be accompanied by that of another check signer.
- Director #1 (currently the Chair) may sign checks of any amount.
- Director #2 (currently the Vice Chair) may sign checks of any amount.
- Director #3 (currently a Director) may sign checks of any amount.

Checks must be made payable to specific payees based upon appropriate documentation and never to “cash” or “bearer.” Check signers should be presented with vouched invoices at the time the checks are presented for signature.

A check signer (staff or Director) is not authorized to sign a check made payable to himself/herself.

Disbursements must be recorded in the checkbook when the check is written. Individual disbursements must be recorded in the general ledger (QuickBooks).

Access to blank checks must be limited to Directors and District employees. Individuals with check-signing authority must not have access to the supply of unused checks. Blank checks must be kept locked in a secure place. Blank checks must not be signed; checks must be filled completely before being signed.

Chair

Date

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Sample 2- Check Signing Policy

District checks may be signed only by individuals with check-signing authority registered with the financial institution.

All District checks must have two signatures. Check signatories for the District may include the following:

- Chair of the board
- Treasurer
- Administrative Assistant
- TMDL Conservation Specialist
- District Manager/Executive Director

Checks must be made payable to specific payees based upon appropriate documentation and never to “cash” or “bearer.” Check signers should be presented with vouched invoices at the time the checks are presented for signature.

A check signer (staff or Director) is not authorized to sign a check made payable to himself/herself.

Disbursements must be recorded in the checkbook when the check is written. Individual disbursements must be recorded in the general ledger (QuickBooks).

Access to blank checks must be limited to Directors and District employees. Individuals with check-signing authority must not have access to the supply of unused checks. Blank checks must be kept locked in a secure place when not in use. Blank checks must not be signed; checks must be filled completely before being signed.

Chair

Date

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Sample Employee Pay Action Approval Form

Soil and Water Conservation District
Employee Pay Action Approval Form

Employee Name:

Position title:

Initial Employment Date: ____/____/_____ Exempt or Non-Exempt status: _____

SWCD Board Meeting Approval Date ____/____/____

Date	Description of Pay Action	Amount of Pay Action	Employee Current Pay Rate	Employee New Pay Rate	Signature (Chair or Personnel Comm. Chair)

Sample Telework Policy

PURPOSE

The _____ SWCD's telework and alternate-site work policy provides guidelines under which eligible staff may telecommute, for all or part of their work week, in order to promote general work efficiencies. Telework may also enable the District to respond to certain employee needs, such as the economics of commuting, and respond to unforeseen office or public emergencies that do not allow employees to work from the central workplace. The following policy defines the requirements for establishing a telework arrangement for staff.

POLICY

Telework is defined as allowing employees to work at an alternate location. Employees perform essentially the same work that they would in the central workplace in accordance with their usual performance expectations and other agreed-upon terms. Telework arrangements may be established for long-term or short-term periods. Although many of the programs, operations, and services are normally performed on office premises and require the presence of employees at the central workplace, the District does have the authority to designate positions eligible for telework or alternate work arrangements. While alternate work arrangements may meet the needs of both the District and the employee, the District Manager and Personnel Committee have the sole discretion to determine when this is appropriate. In certain cases, a telework arrangement could be considered a reasonable accommodation for an employee with a disability covered under the Americans with Disabilities Act (ADA). Approvals for telework should be made on a case-by-case basis. The approval of a position for telework does not mean that a different employee who later fills the position would be authorized to work at an alternate work site. The position should be periodically re-evaluated to determine if telework continues to best meet the District's needs. If telework is expected as a condition of employment, the job announcement should include a statement describing this requirement.

TELEWORK AGREEMENT

Work performed in alternate work locations is considered official business; therefore, the District may establish specific conditions that apply to employees engaged in telework. Prior to beginning a telework arrangement, a telework agreement must be signed and agreed upon by both parties.

EXCEPTIONS TO TELEWORK AGREEMENT

A telework agreement will not be required for employees who wish to telework a maximum of two days per work week. On occasion, the District may also determine that employees may need to work at alternate worksites for a few days to accommodate unusual circumstances, such as a brief office closing for renovations or relocation. In such cases as an emergency governor declaration or natural disaster, a telework agreement is not required but telework authorization should be documented for District files by memorandum or email, specifying work expectations and duration.

TERMINATION OF THE TELEWORK AGREEMENT

The District reserves the right to end the telework arrangement at any time. Employees should be given reasonable notice of the termination of the agreement. Employees may be required to return to the central workplace if deemed as having performance or work conduct problems, or if the SWCD Board of Directors feels it is in the best interest of the District and/or the employee to end the arrangement, either permanently or temporarily.

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GENERAL EXPECTATIONS AND CONDITIONS

There are a variety of issues which the District Manager, the Personnel Committee and the employee should discuss before implementing a telework agreement. An employee's classification, compensation and benefits will not change upon implementation of telework.

HOURS OF WORK

The amount of time the employee is expected to work will not change due to participation in a telework agreement. Hours of work should remain the same unless specified in the agreement. The employee agrees to apply her/himself to work during work hours. The procedures for approval of overtime and the approval and use of leave should also be specified.

TELEWORK OBJECTIVE

The opportunity to telework is not intended to be used in place of leave, nor is telework designed as a substitute for child or adult care. If children or adults in need of care are in the home during the employee's at-home working hours, another individual should be present to provide the primary care.

COMPLIANCE WITH POLICIES

Employees must agree to comply with rules, policies, practices and instructions and understand that violation of such may result in the termination of the telework arrangement and/or disciplinary action, up to and including, dismissal.

SECURITY OF AGENCY INFORMATION AND RECORDS

Employees are responsible for the security of all documents and records in their possession while teleworking and must adhere to the normal PII (Personally Identifiable Information) security procedures to ensure confidentiality and security of data. Any use of restricted-access information or materials at an alternate work location must be approved and described in an agreement, along with procedures for removing and returning those materials. If any documents or records containing PII are misplaced, the District Manager must be notified immediately so proper procedures can be followed to notify the affected individual(s).

AUTHORIZED CENTRAL WORKPLACE CLOSURE (in the event of power outages, inclement weather, etc.)

Employees who telework must continue to work their allotted daily hours in the event of a workplace closure for the day due to power outage or inclement weather.

EQUIPMENT AND MATERIALS

Employees may be authorized to use their own equipment. Where agreements specify, the District may provide equipment and materials needed by employees to effectively perform their duties; however, they are not required to do so. Employees must agree to use equipment provided by the District and supplies for business purposes only and to notify the District Manager immediately of equipment malfunction in order to schedule repair or replacement. All equipment located at an employee's premises is fully insured. Any damage or theft of the equipment should immediately be reported to the District Manager. Equipment used in the normal course of employment will be maintained and repaired by the District. When employees are authorized to use their own equipment, the District will not assume responsibility for costs of repairs, maintenance, or service.

OTHER COSTS

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The District is not responsible for operating costs (such as electric bills, phone costs and internet), home maintenance, or other costs incurred by employees in the use of their homes as alternate work locations.

LIABILITY

The District assumes no responsibility for injuries occurring in the employee's alternate work location outside the agreed upon work hours, or for liability damages to employee's real or personal property resulting from participation in the telework program. General liability insurance protecting the actions of District employees is provided 365 days per year subject to the provisions of the insurance policy in effect at the time. Workers' compensation coverage is limited to designated work areas in employees' homes or alternate work locations. Employees agree to practice the same safety habits they would use in their daily District duties and to maintain safe conditions in their alternate work locations. Employees must follow normal procedures for reporting illness or injury.

SAFETY CONFIRMATION

As it deems necessary, the District may wish to include additional conditions in its telework agreement that require employees to: maintain safe work conditions and practice appropriate safety habits, confirm that the work location is free from hazards, and notify the District Manager immediately of any injury incurred working.

PROCEDURES

The District has developed a telework agreement that incorporates the employee's conditions of employment. The executed telework agreement for all employees shall be maintained by the District Manager in accordance with the Virginia Public Records Act. A copy of the telework agreement, and any subsequent changes to it, should be kept in the employee's personnel file. The termination of such an agreement should be in writing.

DEFINITIONS

Telework – A work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their central workplace for at least one day per week or 32 hours per month and in accordance with the telework agreement.

Alternate work location – Approved work sites other than the employee's central workplace where official District business is performed. Such locations may include, but are not limited to, employees' homes and satellite offices.

Central workplace – the location where the employee normally performs her/his duties.

Work agreement – The written agreement between the employer and employee that details the terms and conditions of an employee's work away from his or her central workplace.

Approved by _____ SWCD Board of Directors Date: _____

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Sample Telework Agreement

Approved by District Board:

SAFETY

- Employees will self-verify the safety of an alternate worksite.
- Employee is covered by the District Workers' Compensation Program if injured while working at the alternate worksite.
- Employee agrees to bring to the immediate attention of their supervisor any accident or injury that occurs while working at an approved alternate work location.
- Supervisor will investigate all accident and injury reports immediately following notification.
- Supervisor or District reserves the right to inspect the alternate work site to ensure safety standards are met any time before or during this agreement.

CONFIDENTIALITY AND INFORMATION SECURITY

- Employee will apply approved safeguards to protect any records from unauthorized disclosure or damage and will comply with all records and data privacy requirements set forth in state law, District specific policies, and state policies.
- Employee will conduct work at the alternate work location in compliance with all information security standards.

WORK STANDARDS AND PERFORMANCE

- Employee will meet with their supervisor to receive assignments and to review completed work as the supervisor deems necessary.
- Employee may be required to return to the central work location on scheduled telework day based on work requirements for meetings and daily operation requirements.
- Employee will complete all assigned work according to the procedures agreed upon by the employee and the supervisor and according to guidelines set forth in the employee's performance plan.
- Employee agrees to perform telework at the alternate work location and times defined in the agreement unless they notify and receive approval from a supervisor to make a temporary shift in telework location to another alternate site.
- If there is someone in the alternate work location that needs primary care another individual must be present to provide the care.

COMPENSATION AND BENEFITS

- All salary benefits, leave/retirement benefits, and travel reimbursements will remain as if the employee performed all work at the employee's base work location.
- Employee understands that failing to obtain proper approval for overtime work may result in termination of the telework agreement and/or appropriate disciplinary action.
- Employee must obtain supervisory approval before taking leave in accordance with established office procedures. By signing this form, employee agrees to follow established procedures for requesting and obtaining approval of leave.

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EQUIPMENT AND EXPENSES

- Employee who borrows District equipment agrees to protect such equipment in accordance with District guidelines. District owned equipment will be serviced and maintained by the agency.
- If the employee provides their own equipment, the employee is responsible for servicing and maintaining it.
- The District will not be liable for damages to the employee's personal or real property during the performance of assigned work or while using District equipment at the employee's residence.
- The District will not be responsible for operating costs, home maintenance, or any other incidental costs (phone, electric, or any utilities) associated with the use of the employee's residence.

INITIATION AND TERMINATION OF AGREEMENT

- The District and the Employee understand that telework should be governed by the same personnel policy as those applicable to employee's working at the District central workplace except as modified by this agreement.
- District concurs with employee participation and agrees to adhere to applicable policies and procedures.
- The District or Employee may terminate this telework agreement at any time unless telework is a condition of employment. Two weeks' notice should be given to either party.

AGREEMENT:

EMPLOYEE NAME/TITLE: _____

AGENCY: _____

TELEWORK AGREEMENT START DATE AND END DATE:

_____ (should be reviewed and revalidated at least once every two years)

ALTERNATE WORK LOCATION ADDRESS:

ALTERNATE WORK LOCATION PHONE NUMBER IF APPLICABLE

ALTERNATE EMAIL ADDRESS IF APPLICABLE:

TELEWORK ARRANGEMENT CATEGORY: Full-Time _____, Hybrid (32 hours or more week) _____, Limited (less than 32 hours weekly) _____

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TELEWORK PATTERN (circle days): Monday, Tuesday, Wednesday, Thursday, Friday

EMPLOYEE (circle one) IS OR IS NOT expected to work for the duration of an emergency pursuant to a pandemic or when the employee's central workplace is closed due to emergency situations (weather events, act of terrorism, etc.) If the employee is unable to telework during an emergency due to illness or dependent care responsibilities, the employee must use appropriate leave. The employee may be asked and expected to report to the District central workplace, or another alternative location, or be granted emergency leave, on a case-by case basis, when other circumstances (power outage, etc.) prevent the employee from teleworking at the alternate work location listed above.

Employee Signature: _____

District Representative Signature: _____

Date: _____

Approved by _____ SWCD Board of Directors on _____

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Sample Telework Log

SOIL & WATER CONSERVATION DISTRICT TELEWORKING ACTIVITY LOG

Employee Name: _____

Employee Signature: _____

*By signing this form, I certify that this is a true and accurate description of the time and work that I completed.

Instructions: Use this form to document your teleworking activities. You may use more than one line per day for logging your activities. Please submit a copy of this form to your supervisor.

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Sample Gift Card Log

Soil and Water Conservation District
Fiscal Year _____ Gift Card Log

Name of Recipient	Type	Value	Reason for Award	Date Awarded
Ex: John Doe	Visa Gift Card	\$25	Poster Contest Winner	October 1, 2024

SECTION III

PARLIAMENTARY PROCEDURE/ FOIA/COIA



Facilitation Series: Parliamentary Procedure

Martha A. Walker, Ph.D., Community Viability Specialist, Virginia Cooperative Extension
Dawn Barnes, Family & Consumer Sciences Senior Agent, Virginia Cooperative Extension
Megan M. Seibel, Ph.D., Extension Specialist, Virginia Cooperative Extension
Andy Seibel, Ed.S., Associate Extension Specialist, Virginia Cooperative Extension

Meetings often become stressful and chaotic when a group is attempting to make a decision. At times, multiple individuals are attempting to talk at the same time while others sit in the back of the room and are disengaged from the topics being discussed. Disorganized meetings result in arguments among participants, inappropriate decisions, and people leaving the meeting feeling confused and frustrated. A basic understanding of parliamentary procedure leads to organized meetings and positive decision making experiences for participants.

Parliamentary procedure is a set of proven rules that serve as guidelines (not laws) for conducting effective meetings. The use of parliamentary procedure provides a way of conducting business in a fair and democratic manner. The “rules” of parliamentary procedure are simply guidelines to follow, not laws. The most commonly used system of parliamentary procedure is Roberts Rules of Order, which provides an in-depth description of procedures used in conducting meetings.

Parliamentary procedure can be intimidating, confusing, and boring – especially for those who have had little or no experience. As the person leading the meeting, it is your responsibility to show respect and courtesy to all members. Knowing the guidelines and language of parliamentary procedure will assist you in facilitating the transaction of business and promoting cooperation and harmony.

Remember: as the leader, or “chair,” of the meeting your job is to facilitate a discussion that follows basic guidelines of sound parliamentary procedure that include the following:

- All members have equal rights, privileges, and obligations.
 - The majority has the right to decide.
 - The minority has rights, which must be protected.
- A quorum must be present for the group to act.
- Full and free discussion of every motion considered is a basic right.
- Only one question/motion can be considered at any given time.
- Members have the right to know at all times what the impending question/motion is, and to have it restated before a vote is taken.
- No member can speak until recognized by the chair.
- No one can speak a second time on the same question as long as another member wants to speak a first time.
- The chair should be strictly impartial and not debate or discuss items of business while serving as the chair. The chair may only vote by ballot or to create or break a tie.

Adapted from Roberts Rules of Order, 10th edition

Authorities on Parliamentary Procedure

Organizations have access to more than one recognized authority on parliamentary procedure, but the organization normally selects one resource to guide the way it conducts business. The list of resources includes:

- Robert's Rules of Order, Newly Revised (RONR)
- Cannon's Concise Guide to Rules of Order
- Demeter's Manual of Parliamentary Law and Procedure
- Mason's Manual of Legislative Procedure
- Riddick's Rules of Procedure
- Jefferson's Manual (Manual of Parliamentary Practice for the use of the Senate of the United States)
- Standard Code of Parliamentary Procedure

The Language of Parliamentary Procedure

Every leader learns the language required to conduct business within the organization. Parliamentary procedure has key words that are used when referring to specific actions. The words include:

- **Motion:** A proposal or resolution by a member that the assembly takes a certain action or expresses a certain view. A motion is considered out of order if it conflicts with the constitution or by-laws of the group or is beyond the scope of the organization's purpose.
- **Main Motion:** A main motion is used to introduce a new item of business or principal subject. In order for a motion to be considered, it must be supported with a second by another member of the assembly or group. The member who seconds the motion does not have to be in favor of the motion; a second simply shows that they have interest in discussing the motion. Only one main motion may be considered at a time and the motion must be disposed of before another main motion may be considered.
- **Motion to Lay on the Table (or Tabling):** When the group needs to take action on an urgent item of immediate need the current main motion may be temporarily set aside by utilizing the motion of *Lay on the Table*. If approved, the pending question (Main Motion) will remain off the table until the assembly approves bringing it back before the group. The main motion may only be set aside until the next meeting or it will be considered lost (disposed of).
- **Motion to Take from the Table:** This motion enables the assembly to resume consideration of a previously tabled main motion.
- **Point of Order:** Allows any member to object/question a proceeding as being in conflict with the rules of procedure. The chair must recognize the *Point of Order* and rule on whether the member's concern was valid.
- **Previous Questions:** A motion to terminate debate and proceed to vote on the issue at hand. The *Previous Question* must be supported by another member and this procedure requires a 2/3 vote to pass, and is not debatable.



- **Friendly Amendment:** A small change to an original motion. Those who made and seconded the original motion must agree to the amendment. Normally, the chairman will ask for unanimous consent on a friendly amendment.
- **Amendment:** A procedure that allows a main motion to be altered. The amendment must be germane (relevant) to the main motion and this procedure allows a member to change the wording in order to make the motion better or more desirable. A motion may be amended by 1) Inserting words, 2) deleting words, or 3) inserting/substituting new words in place of the deleted words.
- **Motion to Adjourn:** A motion made at the conclusion of a business meeting or at the final business session. This motion allows for an orderly close to the meeting.
- **Majority Vote:** More than half of the votes or 50 percent + 1.
- **Quorum:** The minimum number of members required in the by-laws to conduct business legally. Normally considered to be at least 50 percent of the people eligible to attend the meeting.
- **Recess:** A motion that allows the group to take a short break in the meeting in order to count ballots, to secure additional information, or to allow for informal discussion of an item of business.
- **Object to the Consideration of a Question:** A motion used to prevent discussion of a main motion that is not worthy of the group's attention. An example of such a main motion is one that may be considered ridiculous or injurious to the reputation of the group or its members. This procedure must be made before discussion of the main motion occurs and it requires a 2/3 vote.
- **Limit Debate:** If you believe that discussion of the main motion will take a long time, then you can move to limit debate or extend debate. Debate can be limited/extended to the number of speakers, the number of times a speaker may address the group, the length of discussion, or by setting a time for terminating debate. Roberts Rules of Order, if adopted by the organization, limits the debate on each motion to two discussions per member, and a ten minute time limit per debate.
- **Postpone Definitely:** If you believe that the group needs more time to investigate/gather more information about the main motion, then you can move to postpone the main motion to a definite time or day. The item is normally postponed to the next meeting date. An item cannot be postponed more than three months.
- **Reconsider a motion:** Sometimes a motion that was passed at a previous meeting needs to be altered or improved upon due to new circumstances. Only members that voted on the prevailing side of the previously approved motion can move for the reconsideration.
- **Commit or Refer to a Committee** – There are times when a motion could be handled more effectively by a small group of people due to the time constraints, the need to gather additional information, or to act on the membership's behalf. When this situation occurs, a member may



move to refer the motion to a special or standing committee. If the maker of the motion does not specify the members of the special committee, then the chair appoints the committee once the motion to refer passes. The first person the chair appoints is the chair of the committee. If the motion is referred to standing committee then there is no need to appoint a chair of the committee.

When a motion is referred, the maker of the motion must decide on what powers to give the committee. Unless the appointed committee's power is restricted, then the committee can spend money, sign contracts, and appoint new members to their committee without a requirement to report back to the membership. Therefore, it is often a good idea to give a committee the charge to investigate an item/motion and to specify when they should report back to the group (i.e. the next scheduled meeting).

Note: Any time a committee report is presented back to a group, the report comes with an implied second and the chair should consider the report open for discussion. No formal motion to do so is required.

Adapted from the ABC's of Parliamentary Procedure, Arnold Air Society-Silver Wings

The Agenda

The order of business conducted at a meeting is called an agenda. It is prepared by the group's chair and/or leadership team, written to contain specific parts organized in a specific manner, and distributed to the membership either prior to the meeting or at the beginning of the session. Robert's Rules of Order, Newly Revised (p. 25) defines the components of an agenda as:

- Call to Order
- Adoption of the Agenda
- Reading and Approval of Minutes
- Reports of Officers, Boards, and Standing Committees
- Reports of Special Committees
- Special Orders (matters which have previously been assigned a type of special priority)
- Unfinished Business
- New Business
- Announcements
- Adjournment



Be assured that Robert's Rules of Order does not suggest using the phrase "old business" but lists "unfinished business" as the category for any action that is carried over from one meeting to the next meeting.

In addition to what is recommended by Robert's Rules, a promising practice used by many organizations is to include the organizational mission and vision on each agenda. The inclusion of these statements remind members of the organizational purpose and its aspirations.

Motions & Voting

The business of an organization is managed through motions or proposals made by the members. The assembly of members would then take action on any motion through a vote. Robert's Rules of Order has defined the types of motions, whether a second is required, if the motion may be amended, and what level of vote is required.

Types of motions are categorized as:

- Main
- Secondary
 - Subsidiary
 - Privileged
 - Incidental
- Unclassified
 - Reconsider

An effective leader must consider that:

- Only one Main Motion may be on the floor at one time.
- Only one member/speaker can have the floor at a time.
- The person that makes the main motion should always be given the first debate.
- Once a person has debated then all other members should be given an opportunity to debate before any member is allowed to have a second debate.
- Debatable motions must receive full debate.
- Personal remarks during debate are always out of order.
- Once the question has been decided, it cannot be brought up again at the same meeting.
- The majority rules.
- Silence means consent.

Steps by which a Motion is brought before the Group

Consideration of a motion begins when a member makes a motion. The Chair asks "Is there a second?" (Of course, if someone quickly seconds the motion, there is no need to ask for a second. If the motion is coming from a committee, it does not require/need a second.) After another member seconds the motion, the chair restates the motion and opens the floor for discussion.

Consideration of a Motion

When the floor is open for discussion, members are encouraged to debate/discuss the motion unless no member claims the floor for that purpose. Remember, no debate should occur unless a motion has been made, seconded and stated by the chair.

As members request permission to speak to the motion, it is appropriate to recognize (invite) the person who made the main motion to speak first. If needed, the chair will want to alternate debate between pro and con positions on the motion.

A motion may be amended with words either inserted/added or removed/struck, or both. Amendments require a second and may be debated/discussed and the amendment must be voted on before the main motion can be discussed. Amendments may also be amended - this is called a secondary

amendment. Only one secondary amendment can be pending and the secondary amendment must be voted on before debate/discussion continues on the primary amendment.

Voting

As motions are made in the meeting, the organization may vote on a motion in several ways including by:

- Voice
- Rising (standing)
- Secret ballot
- Roll Call
- Unanimous Consent



Please note, raising one's hand is not considered an official method of voting outside of informal groups (like committees).

The chair puts the question to a vote by restating the question and taking the vote. A chair may state:

- "All in favor of the motion, say aye."
- "Those opposed, say no."
- The chair of the group may only vote 1) to cause a tie, 2) to break a tie, or 3) on a ballot vote.

A motion passes with a simple majority except in specific cases, such as *Previous Question* or *Limit or Extended Debate*, which each require a 2/3 vote. A 2/3 vote is generally required on a motion when the motion affects certain rights of the assembly.

The chair announces the result of a vote by saying "The motion was approved" or "The motion was defeated." A complete announcement should include a:

- Report on the voting itself, stating which side prevailed (and giving the count if a count prevailed).
- Declaration that the motion is adopted or lost.
- Statement indicating the effect of the vote or ordering its execution.



Minutes

The record of the proceedings of a deliberative assembly is usually called the Minutes, the Record, or the Journal. The essential text that should be included in the minutes include: (a) the kind of meeting; (b) name of the assembly; (c) date of meeting and place; (d) the presence of the regular chairman and secretary or, in their absence, the name of their substitute; (e) whether the minutes of the previous meeting were approved; (f) all the main motions (except those that were withdrawn) and points of order and appeals, whether sustained or lost, and all other motions that were not lost or withdrawn; and (g) the hours of meeting and adjournment.

Generally, the name is recorded of the member who introduced a main motion, but not of the seconder. In some organizations the minutes are signed by the president in addition to the secretary and, when published, they should always be signed by both officers.



Adapted from Roberts Rules of Order, 10th edition



Sample Meeting Agenda/Minutes Template

XXXX BOARD MEETING MINUTES

DATE: Month./Day/Year

TIME: 10:30 AM

LOCATION: Conference Room B, Main Office

MEETING CHAIR: Jane Doe email: janedoe@email.com phone: 540.555.5555

MEETING SECRETARY: George Cruz email: johndoe@email.com phone: 540.555.1111

MEETING TITLE: December Monthly Board Meeting

BOARD MEMBERS

Monique Abel

George Cruz

**John Doe*

Elizabeth Walker

***designates absence**

1. Call to Order Remarks
2. Welcome / Introductions Remarks
3. Quorum Remarks
4. Agenda Approval Remarks
5. Approval of Previous Minutes Remarks
6. Reports of Officers, and Standing Committees Remarks
7. Reports from Special Committees Remarks
8. Unfinished Business Remarks
9. New Business Remarks
10. Adjournment Remarks

BOARD CHAIR APPROVAL:

(Signature & Date)

BOARD SECRETARY APPROVAL:



Virginia Cooperative Extension
Virginia Tech • Virginia State University

www.ext.vt.edu

(Signature & Date)

Summary

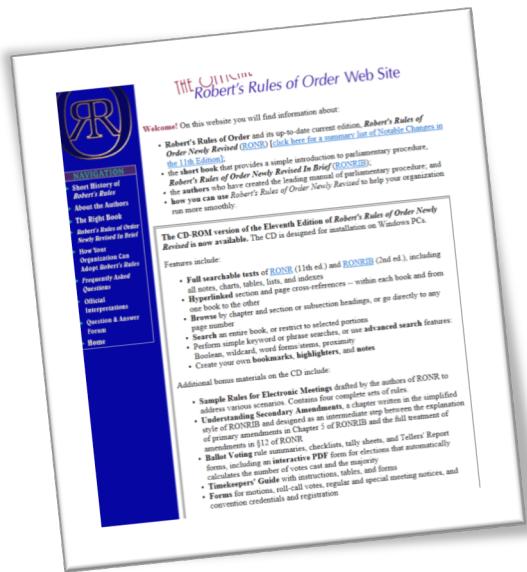
Robert's Rules of Order 10th Edition offers a chart on wording that should be used, actions that should be taken during meetings, and the appropriate and type of vote is required by the group.

Parliamentary Procedures at a Glance

To do this...	You say this...	May you interrupt the speaker?	Must you be seconded?	Is the motion debatable?	What vote is required?
Make Main Motion	I move that . . .		Yes	Yes	Majority
Amend a motion	I move this motion be amended by...	No	Yes	Yes	Majority
Adjourn meeting*	I move that we adjourn	No	Yes	No	Majority
Recess meeting	I move that we recess until...	No	Yes	No	Majority
Complain about noise, room temp., etc.*	Point of privilege	Yes	No	No	No vote
Suspend further consideration of something	I move we table it	No	Yes	No	Majority
Close debate	I move the previous question	No	Yes	No	2/3 vote
Postpone consideration of something	I move we postpone this matter until...	No	Yes	Yes	Majority
Have something studied further	I move we refer this matter to committee	No	Yes	Yes	Majority
Introduce business (a primary motion)	I move that...	No	Yes	Yes	Majority
Object to procedure or personal affront*	Point of order	Yes	No	No	No vote, chair decides
Request information	Point of information	Yes	No	No	No vote
Ask for actual count to verify voice vote	I call for a division of the house	No	No	No	No vote
Take up a matter previously tabled*	I move to take from the table...	No	Yes	No	Majority
Reconsider something already disposed of *	I move we reconsider our action relative to...	Yes	Yes	Yes	Majority
Vote on a ruling by the Chair	I appeal the Chair's decision	Yes	Yes	Yes	Majority

*Not Amendable

Adapted from *Roberts Rules of Order, 10th edition* - Reference: Ericson, J. (1991) *Notes and comments on Robert's Rules, Revised Edition*. Southern Illinois University Press



In addition, a website developed by Robert's Rules of Order offers additional support. Items include:

- <http://www.robertsrules.org/rulesintro.htm> offers a quick overview of the rules.
- <http://www.robertsrules.org/> provides a summary of Roberts Rules.
- <http://www.robertsrules.com/faq.html#1> includes answers to key questions related to parliamentary procedures.
- <http://www.rulesonline.com/> offers on-line training for Roberts Rules.
- Institute for Local Government. Parliamentary Procedure Simplified for elected officials
<http://www.ca-ilg.org/document/parliamentary-procedure-simplified>

Meeting with purpose and impact requires planning and organization. The ideal outcome for most groups is to have agreement for an action reached based on building consensus among the members. Parliamentary procedure offers every leader a tool to guide the discussion and maintain order so that everyone is heard and the majority decides.

References

- *ABC's of Parliamentary Procedure*, Arnold Air Society-Silver Wings. <https://www.aas-sw.org/>
- Robert III, H.M. (2000). *Roberts Rules of Order*, 10th edition. Cambridge, MA: Da Capo Press a member of Perseus Books Group.
- Ericson, J. (1991). *Notes and comments on Robert's Rules, Revised Edition*. Southern Illinois University Press.

The authors express their appreciation to Jeanie Layton-Dudding, agricultural and natural resources agent with Virginia Cooperative Extension, for sharing her expertise on parliamentary procedure and strengthening this publication through her review and suggestions.



The Virginia Freedom of Information Act (FOIA)

General Overview

❖ What is the Virginia Freedom of Information Act?

The Virginia Freedom of Information Act, or FOIA, is the Act that addresses citizens' and media representatives' rights to access public records and public meetings as found in §§ 2.2-3700 through 2.2-3715 of the Code of Virginia.

The Code of Virginia, hereafter referenced as "Code", provides in § 2.2-3700(B):

"By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or is officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted... This chapter shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth."

❖ Are Soil and Water Conservation Districts (SWCDs or districts) subject to the Act?

Yes, SWCDs are considered a "public body" covered by FOIA.

Code § 2.2-3701:

"Public body means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any *political subdivision of the Commonwealth...*" (Emphasis added)

❖ Who is guaranteed access to records of public bodies?

Code § 2.2-3704(A):

"All public records shall be open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth."

FOIA Training Requirements

❖ Do newly elected SWCD Directors need to be familiar with FOIA?

Yes, the Act states that people elected and appointed to a public body need to become familiar with FOIA.

Code § 2.2-3702:

"Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished...with a copy of this chapter

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within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.”

❖ **Are there any specific training requirements for directors?**

Yes, the Act states that each local elected official shall complete a training session within two months after assuming the local elected office and at least once during each consecutive period of two calendar years.

Code § 2.2-3704.3(B):

“Each local elected official...shall complete a training session described in subsection A within two months after assuming the local elected office and thereafter at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session, for as long as he holds such office.”

❖ **Who provides training for directors?**

The Act states that the FOIA Council shall provide in-person or online training sessions for local elected officials.

Code § 2.2-3704.3(A):

“The Virginia Freedom of Information Advisory Council (the Council)...shall provide in-person or online training sessions for local elected officials...on the provisions of this chapter.”

❖ **Who maintains training records?**

The clerk’s office maintains a record of those who are subject to the training requirement and the date of the completed training sessions.

Code § 2.2-3704.3(C):

“The clerk of each governing body...shall maintain records indicating the names of elected officials subject to the training requirements...and the dates on which each such official completed training sessions satisfying such requirements.”

Note: “Clerk of each governing body” refers to the Clerk of the Board of Supervisors, City Council or Town Council of the respective locality represented by the elected director.

Public Meetings

Code § 2.2-3701 (emphasis added):

“Open meeting or public meeting means a meeting at which the public may be present.”

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❖ **If three directors get together to discuss business, is their gathering considered an “open meeting”? What about district employee/ staff meetings?**

A gathering of three or more SWCD directors (or a quorum if less than three) to discuss district business is considered an open meeting.

Code § 2.2-3701:

“Neither the gathering of employees of a public body...shall be deemed a “meeting” subject to the provisions of this chapter.”

❖ **Is a social event attended by two or more directors considered an “open meeting”?**

No, as long as no district business is discussed at the event *and* as long as the event or attendance at the event was not orchestrated for the purpose of transacting district business, it is not considered an open meeting.

Code § 2.2-3701:

“Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body...at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body...shall be deemed a “meeting” subject to the provisions of this chapter.”

❖ **Are SWCD committee meetings considered “open meetings”?**

Yes, committee meetings are subject to the same requirements; “any committee, subcommittee or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body” must comply with provisions of this Act.

Code § 2.2-3701.

❖ **If there are fewer than three directors but several associate directors and a SWCD staff member appointed to a committee, would the committee meeting still be considered an “open meeting”?**

The number of elected or appointed directors selected to serve on a committee does not change its status as a “public body” subject to FOIA under the definition cited in the question above (“any committee, subcommittee or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body”). The Code goes a step further to say “It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members”.

The constituent membership of a committee is comprised of those who are appointed to the committee by the SWCD board. It may include but is not limited to directors,

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associate directors, staff of partnering agencies and even employees of the SWCD as long as employees are appointed to the committee by the SWCD board.
Code § 2.2-3701.

Note: The threshold number of three members (or a quorum) referenced in the question comes from the definition of “meeting” in the same section, which is referenced below:
Code § 2.2-3701:

““Meeting” or “meetings” means the meetings including work sessions, when sitting physically, or through electronic communication pursuant to Code § 2.2-3708.2 or Code § 2.2-3708.3, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body...shall be deemed a “meeting” subject to the provisions of this chapter.”

❖ **Does that mean that SWCD employees may count toward the constituent membership of the committee?**

SWCD employees only count toward the constituent membership of a committee if they are appointed to the committee by the board. If they are not appointed to the committee but are assisting with the committee as a part of their duties as employees then they do not count toward the constituent membership of the committee.

Closed Meetings

Code § 2.2-3701:

“Closed meeting means a meeting from which the public is excluded.” (Emphasis added)

❖ **When are closed meetings allowed?**

Closed meetings may be held only for certain purposes as designated by the Act. Examples include discussion of personnel matters, consultation with legal counsel, discussion of special awards and review of certain exempt records related to resource management plans. A list of the closed meeting purposes is found in the Code § 2.2-3711(A).

❖ **How does a district hold a closed meeting?**

There is a specific closed meeting procedure outlined in the Code § 2.2-3712. The district must hold an open public meeting at which a director makes an appropriate motion to go into a closed session.

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❖ **Is there any procedure for making a closed meeting motion?**

Yes, to be a lawful closed meeting the motion must do three things

Code § 2.2-3712(A):

- 1) Identify the subject matter.
- 2) State the purpose of the closed meeting.
- 3) Refer to the specific exemption (from the list in Code § 2.2-3711) that allows the closed meeting.

❖ **What are the rules the district must follow while in a closed meeting?**

Among many important provisions within § 2.2-3712, discussion in the closed meeting must be restricted to items identified in the closed meeting motion.

Code § 2.2-3712(A-H).

❖ **May non-board members be present in a closed meeting?**

Yes. If additional people are considered necessary for the discussion, or if their presence will reasonably aid the public body's discussion, they are allowed.

Code § 2.2-3712(F).

❖ **Is the board allowed to vote on items during the closed meeting?**

No. The Act is very specific about limiting action taken during closed meetings. All votes must be taken in an open meeting setting.

Code § 2.2-3712(H):

“Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by §2.2-3707.”

Code § 2.2-3711(B):

“No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.”

❖ **What procedure is followed to conclude a closed meeting and reconvene an open meeting?**

The public body “shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member’s knowledge:”

- 1) Only topics that are exempt under one or more of the closed meeting purposes were discussed.

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2) Only matters identified in the original closed meeting motion were discussed. If a director believes there was a departure from requirements of the two items above, they must state their reasons prior to the referenced vote, to be recorded in the minutes of the open meeting. Code § 2.2-3712(D).

Meeting Notices

❖ What does the Act require in terms of meeting notices?

Code § 2.2-3707(D):

“Every public body shall give notice of the *date, time, location* and *remote location*, if required, of its meetings by: (1) posting such notice on its official public government website, if any; (2) placing such notice in a prominent public location at which notices are regularly posted; *and* (3) placing such notice at the office of the clerk of the public body, or in the case of a public body that has no clerk, at the office of the chief administrator. Publication of meeting notices by electronic means shall be encouraged. The notice shall be posted at least three working days prior to the meeting.” (Emphasis added.)

Note: “Office of the clerk of the public body or the office of the chief administrator” in this section of Code refers to the SWCD Office. This is different from the way it is defined in § 2.2-3704.3(C) where the “Clerk of each governing body” refers to the Clerk of the Board of Supervisors, City Council or Town Council of the respective locality represented by the elected director.

❖ Must a district send meeting notices to every person individually?

Yes, if the person files a written request for direct notice of meetings.

Code § 2.2-3707(F):

“Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.”

❖ If the monthly meeting is held on the same day, time and place every month must the district give separate notice each month?

No, as long as the district publishes written notice of the set meeting dates, the Act is satisfied. However, if any changes are made to the regular day, time and place,

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supplementary notice of the change(s) must be published and sent to those requesters who requested direct notice at least three working days prior to the meeting.

❖ **What if the district changes its meeting date or holds an emergency meeting and there are less than three working days prior to the meeting?**

Code § 2.2-3707(E):

“Notice, reasonable under the circumstance, of special, emergency or continued meetings shall be given contemporaneously with the notice provided to the members of the public body conducting the meeting.”

The citizens who filed a written request for direct notice and district directors must be notified at the same time. If the meeting will be conducted in really short notice and mail cannot be delivered in time, district directors and the citizen requesters will be contacted by phone.

Meeting Agendas

Code § 2.2-3707(G):

“At least one copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body.”

In the above statement all agenda materials, (with the exception of “exempt” materials) should be made available for public scrutiny. Some examples of exempt materials include tax returns, medical records, personnel records, personal or proprietary information supplied relating to a resource management plan as per § 10.1-104.7(E), and site specific location information about rare, threatened, endangered or imperiled plant and animal species, natural communities, caves and significant historic and archaeological sites if that disclosure would jeopardize the existence or integrity of the resource. A complete listing of exempt items is found in Code §§ 2.2-3705.1. through 2.2-3706.1.

Electronic Communication Meetings

❖ **If a district board meets and there isn't a quorum of directors present to vote on items, may an absent voting member be called so they may join the meeting by telephone to obtain an additional vote?**

No. This is a direct violation of the Act unless permitted by §2.2-3708.2 or §2.2-3708.3(C) or other provisions of law that allow for a meeting without a quorum being present in one location. When members are allowed to exercise the remote participation provision in non-emergency situations, participation is defined as being “...by an

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individual member of a public body by electronic communication means *in a public meeting where a quorum of the public body is otherwise physically assembled*".

Code § 2.2-3701.

❖ **Is there any situation that would allow for a district to hold an electronic communication meeting without a quorum physically assembled?**

Yes, there are two provisions. A district can hold electronic communications meetings in emergency situations and all-virtual public meetings and there are specific stipulations associated with each provision that are outlined in the Code.

Code § 2.2-3708.2:

"Any public body...may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency...or the locality in which the public body is located has declared a local state of emergency...provided that (i) the catastrophic nature of the declared emergency makes it impractical or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities."

Code § 2.2-3708.3(C) and § 2.2-3708.3(C)(9):

"...any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D...and the public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting..."

❖ **Where can I go for more information?**

Please reference the "Guidelines for Meeting through Electronic Communications in Non-Emergency and Emergency Situations" document included in the SWCD Director Orientation Notebook and the Virginia FOIA Council's document titled *Electronic Meetings Under the Virginia Freedom of Information Act* which can be found at <https://foiacouncil.dls.virginia.gov/ref/E-Meetings%20Guide%202023.docx>. And, as always, please contact the FOIA Council with questions or visit the FOIA Council's [website](#) for additional information.

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Minutes

❖ Are recorded minutes required at all district meetings (including committee meetings)?

Yes. “Minutes shall be taken at all open meetings”. Committee meetings are considered “open meetings”. Therefore, minutes are required at such meetings. Draft minutes and all other records of open meetings, including audio or audio/visual records are also considered public records.

Code § 2.2-3707(I):

“Minutes shall be in writing and shall include, (a) the date, time and location of the meeting, (b) the members of the public body recorded as present and absent, and (c) a summary of the discussion on matters proposed, deliberated or decided, and a record of any votes taken.”

❖ Are there any posting requirements for minutes?

Yes. “Any local public body subject to the provisions of this chapter shall post minutes of its meetings on its official public government website, if any, within seven working days of final approval of the minutes.”

Code § 2.2-3707.2.

❖ What if the district does not have a website?

“If the local public body does not own or maintain an official public government website, such public body shall make copies of all meeting minutes available no later than seven working days after final approval of the minutes (i) at a prominent public location in which meeting notices are regularly posted pursuant to subdivision C 2 of Code § 2.2-3707; (ii) at the office of the clerk of the public body; or (iii) in the case of a public body that has no clerk, at the office of the chief administrator.

Code § 2.2-3707.2.

❖ Does this posting requirement apply to all districts?

No. As a result of the definition of “local” public body, this requirement only applies to SWCDs that cover a single locality. SWCDs that cover more than one locality fall under the definition of a “regional public body” that is listed in FOIA and are not required to post minutes but are strongly encouraged to do so.

Code § 2.2-3701:

““Regional public body” means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.”

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Public Records

Code § 2.2-3701:

““Public records” means all writings and recordings that consist of letters, words or numbers, or their equivalent...however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.”

❖ What records may the public see? Are there any exceptions?

Unless a record is deemed an exception in this Act or another Virginia or federal statute, it shall be made available to the public. The Act states that “all public records shall be open to inspection and copying by any citizens of the Commonwealth during regular office hours...”.

There are over 100 exemptions listed in the Act found under Code §§ 2.2-3705.1 through 2.2-3706.1. The district may choose not to disclose these excluded items. Examples include tax returns, medical records, personnel records, information supplied for the purpose of a resource management plan (as per § 10.1-104.7(E)) and site specific location information about rare, threatened, endangered or imperiled plant and animal species, natural communities, caves and significant historic and archaeological sites if that released would jeopardize the existence or integrity of the resource.

❖ Are district employee salaries open to public access?

Yes. The “records of the name, position, job classification, official salary or rate of pay of...any officer, official or employee of a public body” are open to the public as long as the individual makes more than \$10,000 a year.

Code § 2.2-3705.1(1).

❖ Is one employee allowed to know the official salary of another?

Yes. Government employees and officials have the same FOIA rights as any other citizen.

Code § 2.2-3704(A).

Resource Management Plans and FOIA

❖ Are resource management plan records exempt from FOIA?

Yes. Resource management plans and information provided by an individual for the purpose of a resource management plan are listed in FOIA as records that are exempt from public access.

Code § 2.2-3705.6(25)

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“Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency or board of the Commonwealth pursuant to §§10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.”

❖ **Can an open meeting be closed to discuss resource management plans?**

Yes. An open meeting may be closed to allow for discussion of resource management plans and associated material as authorized by FOIA. The law provides that this exemption shall not apply, however, to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or for information that has been transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

Code § 2.2-3711(A)(45):

“Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of §10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.”

5-day Response Time for Public Records

❖ **What procedure does the district follow when it is asked for records?**

The district must respond to the requester in writing within five working days of receiving the request. There are several responses the district can make:

- 1) The records are made available as requested. No written response is needed if the district is able to provide the records within five working days of receipt of the request.
- 2) The records are entirely withheld as permitted by the Act or another statute. In this case the district must put in writing the volume and subject matter of the records and what specific section(s) of the Code exempt the records from disclosure.
- 3) The records are provided in part and withheld in part. As stated above, the district must put in writing the volume and specific section(s) of the Code that exempts the withheld portion(s) of the request.

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- 4) State that the records could not be found or do not exist. If the district knows that another public body has the records, then the district must provide contact information for the other public body.
- 5) State that it isn't practically possible to provide all the requested records or to determine whether they are available within five working days. This response must be provided in writing and specify the conditions which make a response impossible. As long as the district lets the requester know this within five working days of the request, then the SWCD shall have an additional seven working days to provide one of the four previous responses.

Code § 2.2-3704(B).

*Failing to respond is deemed a denial of the request and is a violation of FOIA.

Code § 2.2-3704(E).

❖ **What if there isn't enough time to respond to a request within 12 working days?**

The district can petition the appropriate court for an extension if the request is of a large volume or requires a lengthy search and the district cannot fulfill its operational duties. However, the district first must make "reasonable efforts to reach an agreement with the requester concerning the production of the records requested" before proceeding with the petition.

Code § 2.2-3704(C).

❖ **Is the district allowed to ask why the records are needed?**

The Virginia Supreme court ruled that the motive for a record request is irrelevant. The requester is not obligated to tell the district why the records are being requested.

Associated Tax Service, Inc. v. Fitzpatrick, 236 Va. 181, 372 S.E.2d 625 (1988).

Electronic Records

❖ **Is the district required to process a request for records stored on a computer?**

What if exempt and nonexempt records are present on the same database?

Yes, the district must process a request for electronic records unless the records are exempt under the Act or another statute. The district can charge for this service as stated in the next section entitled "Record Fees". If portions of a database are exempt and others must be disclosed, then only the exempt portions would be redacted. Removing exempt fields from a database is not considered the creation of a new record.

Code § 2.2-3704(F and G).

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Record Fees

Code § 2.2-3704(F):

“...a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records and shall make all reasonable efforts to supply the requested records at the lowest possible cost...Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.”

❖ **Is a district required to notify a requester that there are fees associated with fulfilling a request for information? Is there any requirement to provide an estimate in advance of supplying the records?**

Yes. If a district has a policy to charge a requester for fulfilling a request for information, then it shall notify the requester in writing that there are fees associated with the fulfillment of the request. Such notification must be made before the district begins searching for the records and the district must inquire as to whether the requester would like to have a cost estimate. If the requester requests a cost estimate, then the estimate must be provided before the district fulfills the request.

Code § 2.2-3704(F).

“Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. The public body shall provide the requester with a cost estimate if requested.”

❖ **If the district has a request for records and the cost to access and duplicate them will be over \$200 may they ask for the money up front?**

Yes. “In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records.”

Code § 2.2-3704(H).

❖ **Are districts required to provide an electronic payment method when charging for production of requested records?**

No, districts are not *required* to provide an electronic payment method, but they are encouraged to do so. The Code language specifically mentions “local public bodies” which means that this provision applies directly to SWCDs that cover only one locality;

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regional public bodies (SWCDs that cover more than one locality) are not directly included but are encouraged to do the same. “Any local public body that charges for the production of records pursuant to this section may provide an electronic method of payment through which all payments for the production of such records to such locality may be made.”

Code § 2.2-3704(F).

FOIA Officer Requirement

Code § 2.2-3704.2(A):

“All public bodies...shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body’s compliance with the provisions of this chapter.”

❖ Are there any training requirements for the FOIA Officer?

Yes! “Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least once during each consecutive period of two calendar years commencing with the date on which he last completed a training session by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (the Council) or through an online course offered by the Council.”

Code § 2.2-3704.2(E)

❖ Is the district required to post the name of its FOIA officer?

Yes.

Code § 2.2-3704.2(C):

“...The name and contact information of the public body’s FOIA officer... shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body’s place of business, posting on its official public government website, or including such information in its publications.”

Code § 2.2-3704.2(F):

“The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of the year a FOIA officer is initially trained on a form developed by the Council for that purpose and (ii) updated in a timely manner in the event of any changes to such information.”

Code § 2.2-3704.2(G):

“The Council shall maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve.”

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FOIA Remedies

A person who feels his or her FOIA rights have been violated may file a petition for mandamus or injunction against the public body. Stated simply, a petition asks the court to order the public body to do something (mandamus) or not to do something (injunction). A single violation, including a procedural violation, is enough for a petition to be brought. If the petitioner substantially prevails, FOIA requires the public body to pay his or her court costs, attorney fees, and any expert witness fees, unless there are special circumstances that would make the award unjust. A court may consider the reliance of a public body on an opinion of the OAG or a decision of a court that substantially supports the public body's position.

Code § 2.2-3713.

FOIA Penalties

If the court finds that an officer, employee, or member of a public body "willfully and knowingly" was in violation of this Act, then it "shall impose upon such officer, employee, or member...a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid to the Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000."

Code § 2.2-3714(A).

In addition to any of the above penalties imposed, "...if the court finds that any officer, employee, or member of a public body failed to provide public records to a requester...because such officer, employee, or member altered or destroyed the requested public records with the intent to avoid the provisions of this chapter with respect to such request prior to the expiration of the applicable record retention period" established by the Virginia Public Records Act, "the court may impose upon such officer, employee, or member in his individual capacity...a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund."

Code § 2.2-3714(B).

In addition to any of the above penalties imposed, "...if the court finds that a public body voted to certify a closed meeting in accordance with subsection D of §2.2-3712 and such certification was not in accordance with the requirements of clause (i) or (ii) of subsection D of §2.2-3712, the court may impose on the public body...a civil penalty of up to \$1,000, which amount shall be paid into the Literary Fund. In determining whether a civil penalty is appropriate, the court shall consider" reliance on opinions of the OAG, court cases and published opinions of the FOIA Council.

Code § 2.2-3714(C).

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❖ **Are there any provisions for relying on opinions from the FOIA Council?**

Yes! “Any officer, employee, or member of a public body who is alleged to have committed a willful and knowing violation...shall have the right to introduce at any proceeding a copy of a relevant advisory opinion issued [by the FOIA Council]...as evidence that he did not willfully and knowingly commit the violation if the alleged violation resulted from his good faith reliance on the advisory opinion.”

Code § 2.2-3715.

Virginia Freedom of Information Advisory Council

Website- <http://foiacouncil.dls.virginia.gov/> Phone- 1-866-448-4100 or 804-698-1810

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CLOSED MEETING GUIDELINES

Closed Meetings of public bodies are permitted only for one or more of the purposes specified in the Virginia Freedom of Information Act (FOIA), § 2.2-3711(A). Any exemption from public access to meetings or records shall be narrowly construed.

GOING INTO CLOSED MEETINGS:

1. A motion by a public body to hold a Closed Meeting must consist of three specific items. The motion must: (1) identify the subject matter, (2) state the purpose(s) of the closed meeting, and (3) make specific reference to the statutory authority for the Closed Meeting. § 2.2-3712(A) of the *Code of Virginia*. *See “Sample Motions for Going into Closed Meetings” below.
2. Only matters specifically noted in the closed meeting motion may be discussed during a Closed Meeting. § 2.2-3712(C) of the *Code of Virginia*.
3. Minutes are not required to be taken during a Closed Meeting. Any minutes taken during a Closed Meeting are not subject to mandatory public disclosure under FOIA. § 2.2-3712(I) of the *Code of Virginia*.
4. Only directors and those invited by the public body shall be included in the Closed Meeting. § 2.2-3712(F) of the *Code of Virginia*.
5. Though not specifically required by law, an estimated time to reconvene should be announced or included in the motion so that the public will know when to return.

*Sample Motions for Going into Closed Meetings

- 1) “I move that the *{name of public body}* go into Closed Meeting in accordance with the Virginia Freedom of Information Act § 2.2-3711(A)(1) to discuss merit pay increases for *{named individual employee(s)}*.”
- 2) “I move that the *{name of public body}* go into Closed Meeting in accordance with the Virginia Freedom of Information Act § 2.2-3711(A)(3) to discuss possible purchase of the property, known as Stumpy Hill.”
- 3) “I move that the *{name of public body}* go into Closed Meeting pursuant to the Virginia Freedom of Information Act § 2.2-3711(A)(11) to discuss possible recipients of the Virginia Clean Water Farm Award.”
- 4) “I move that the *{name of public body}* go into Closed Meeting pursuant to the Code of Virginia § 2.2-3711(A)(45) for discussion or consideration of personal and proprietary information excluded from the provisions of this chapter pursuant to (i) § 2.2-3705.6.25, or (ii) § 10.1-104.7(E), Review of a Resource Management Plan.”

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COMING OUT OF CLOSED MEETINGS:

1. At the conclusion of any closed meeting, the public body must immediately reconvene in an open meeting. § 2.2-3712(D) of the *Code of Virginia*.
2. The public body must have a roll call or other recorded vote to be included in the minutes that states that the members in the Closed Meeting heard, discussed or considered only:
 - (1) Public business matters lawfully exempted from open meeting requirements,

AND

- (2) Public business matters specifically identified in the original motion to convene into Closed Meeting. § 2.2-3712(D) of the *Code of Virginia*.

*See “Sample Motions for Certifying Closed Meetings” below.

3. A Certification of Closed Meeting that becomes a part of the official minutes must be adopted when the open meeting reconvenes. This can be in the form of a motion to certify the closed meeting or it can be in the form of a resolution approved by the board. A resolution assures the public body fulfills the obligations set forth in FOIA. (See certification document example on page 3).
4. Any resolution or decision made during the Closed Meeting must be presented and voted on during an open meeting of the public body. §§ 2.2-3711(B) and 2.2-3712(H) of the *Code of Virginia*.
5. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii) as outlined above shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body. § 2.2-3712(D) of the *Code of Virginia*.

*Sample Motions for Certifying Closed Meetings

- 1) “Pursuant to the *Code of Virginia* § 2.2-3712(D), I move to certify that, to the best of each member’s knowledge, only matters lawfully exempted and as identified in the motion by which the Closed Meeting was convened were heard or discussed by this *{name of public body}* during the Closed Meeting.” (This motion is considered a Certification of a Closed Meeting and can be used in lieu of a roll call vote. Please note that if there are any abstentions or dissenting votes on this motion, then a roll call vote must be taken and the protocol outlined in § 2.2-3712(D) must be followed.)
- 2) “I move for the adoption of resolution #*{X}*, “Certification of Closed Meeting”, which confirms that only those matters that were identified and lawfully exempted were discussed during the Closed Meeting.” (A sample certification document is included on page 3).

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RESOLUTION #: _____

MEETING DATE: _____

CERTIFICATION OF CLOSED MEETING

WHEREAS, the *{Public Body}* has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by the *{Public Body}* that a closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the *{Public Body}* hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as identified in the motion convening the closed meeting were heard, discussed or considered by the *{public body}*.

MOTION BY: _____

SECOND BY: _____

VOTES (Requires Roll Call Vote):

AYES:

NAYS:

[For each nay vote, the substance of the departure from the requirements of the Act should be described]

ABSENT DURING VOTE:

ABSENT DURING MEETING:

Secretary of *{Public Body}*

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January 2019



Virginia Department of Conservation & Recreation

**VIRGINIA SOIL AND WATER CONSERVATION BOARD GUIDANCE
DOCUMENT ON FREEDOM OF INFORMATION ACT REQUIREMENTS
FOR RESOURCE MANAGEMENT PLANS PROGRAM IMPLEMENTATION
BY SOIL AND WATER CONSERVATION DISTRICT BOARDS AND
TECHNICAL REVIEW COMMITTEES**

Approved May 20, 2015 (Effective July 1, 2015); revised September 27, 2018

Summary:

This document serves to provide guidance to Resource Management Plan (RMP) review authorities regarding the review of RMPs in a manner which protects personal, proprietary, and confidential information while also remaining in compliance with Virginia Freedom of Information Act (FOIA) (§2.2-3700 et seq. of the *Code of Virginia*) requirements. The document outlines procedures to be utilized in accordance with closed meeting allowances provided for in § 2.2-3711 (A) (45) and referenced in § 10.1-104.7 (E) of the *Code of Virginia* in order to protect such information.

Electronic Copy:

An electronic copy of this guidance in PDF format is available on the Regulatory Town Hall under the Virginia Soil and Water Conservation Board at
<http://townhall.virginia.gov/L/GDocs.cfm>.

Contact Information:

Please contact the Department of Conservation and Recreation's Division of Soil and Water at rmp@dcr.virginia.gov or by calling 804-371-0297 with any questions regarding the application of this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for Virginia's Soil and Water Conservation Districts (Districts) and their Technical Review Committees (TRCs) that administer the RMP Program on behalf of the Virginia Soil and Water Conservation Board (VSWCB) and the Department of Conservation and Recreation (Department). This guidance provides a general interpretation of the applicable Code and Regulations but is not meant to be exhaustive in nature. Each situation may differ and may require additional interpretation of the Resource Management Plans Act and attendant regulations.

FOIA Requirements for RMP Review by District Boards and TRCs

I. Background:

The RMP program provides a voluntary way to promote the use of conservation practices that improve farming operations and water quality. RMPs can help farm owners and operators take advantage of all the conservation measures at their disposal. The plans are designed to encourage farmers, either the farm owner or operator, to use a high level of best management practices (BMPs) that reduce runoff pollution to local waters and, in many cases, improve the farmer's financial bottom line.

Section 4VAC50-70-70 (A) of the RMP regulations stipulates that “[u]pon completion of a new or revised RMP in accordance with 4VAC50-70-50 and 4VAC50-70-60, the owner or operator or the RMP developer on behalf of the owner or operator, shall submit the RMP to the review authority.”

Section 4VAC50-70-70 (B) of the RMP regulations stipulates that “[e]ach soil and water conservation district shall establish a Technical Review Committee (TRC). RMPs received by a soil and water conservation district shall be referred to the TRC for review to ensure the RMP fully meets the minimum standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50.”

The definition of Technical Review Committee set out in 4VAC50-70-10 specifies that a TRC is a committee established by a Soil and Water Conservation District Board to review RMPs and provide recommendations to the Soil and Water Conservation District Board regarding RMPs.

FOIA [§ 2.2-3705.6 (25) of the *Code of Virginia*] provides an exclusion for information of a proprietary nature furnished by an agricultural landowner or operator pursuant to an RMP, and the Resource Management Plans Act [§ 10.1-104.7 (E) of the *Code of Virginia*] specifies that any personal or proprietary information collected pursuant to the Act shall be exempt from FOIA, except where specifically permitted in accordance with the section. Further, § 2.2-220.3 of the *Code of Virginia* specifies that information collected pursuant to voluntary actions taken by the agricultural and silvicultural sectors shall be maintained as confidential and is also exempt from FOIA.

As it relates to RMP review and discussion, TRCs and District Boards are, by definition, public bodies, and meetings of the TRC or the District Board are required to be open meetings, unless the subject of the RMP item being discussed would result in the disclosure of personal or proprietary information which allows for such information to be discussed in a closed meeting as provided for in § 2.2-3711 (A) (45) and referenced in § 10.1-104.7 (E) of the *Code of Virginia*.

This guidance serves to clarify procedures that TRCs and District Boards as public bodies should follow regarding the management and discussion of personal, proprietary, and confidential information associated with RMPs and the RMP program.

II. Definitions

"Closed meeting" means a meeting from which the public is excluded. (Pursuant to § 2.2-3701 of the *Code of Virginia*)

"Department" means the Department of Conservation and Recreation.

"Director" means the officially appointed individual who directs, and is ultimately responsible for, the overall operations of the Department of Conservation and Recreation.

"Meeting" or "Meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The gathering of employees of a public body shall not be deemed a "meeting" subject to the provisions of this chapter. (Pursuant to § 2.2-3701 of the *Code of Virginia*)

"Open meeting" or "public meeting" means a meeting at which the public may be present. (Pursuant to § 2.2-3701 of the *Code of Virginia*)

"Operator" means a person who exercises managerial control over the management unit. (Pursuant to 4VAC50-70-10)

"Owner" means a person who owns land included in a management unit. (Pursuant to 4VAC50-70-10)

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include ... (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. ... (Pursuant to § 2.2-3701 of the *Code of Virginia*)

"Review authority" means a soil and water conservation district or the department where applicable that is authorized under this chapter [the RMP Regulations] to determine the adequacy of a resource management plan and perform other duties specified by this chapter. (Pursuant to 4VAC50-70-10)

"RMP developer" means an individual who meets the qualifications established by this chapter to prepare or revise a resource management plan. (Pursuant to 4VAC50-70-10)

"Soil and water conservation district" or "district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. (Pursuant to 4VAC50-70-10)

"Technical Review Committee" or "TRC" means a committee established by a soil and water conservation district board to review RMPs and provide recommendations to the soil and water conservation district board regarding RMPs. A TRC may include, but not be limited to, the following members: soil and water conservation district directors, associates, and personnel; Virginia Cooperative Extension personnel; department nutrient management specialists; and such other technical resources available to the district. (Pursuant to 4VAC50-70-10)

III. Authority:

The Resource Management Plan Act (§ 10.1-104.7 et seq. of the *Code of Virginia*) contains the following authorities applicable to this guidance:

§ 10.1-104.7 Resource Management Plans; effect of implementation; exclusions.

E. Any personal or proprietary information collected pursuant to this article shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that the Director may release information that has been transformed into a statistical or aggregate form that does not allow identification of the persons who supplied, or are the subject of, particular information. This subsection shall not preclude the application of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) in all other instances of federal or state regulatory actions. Pursuant to subdivision A 45 of § 2.2-3711, public bodies may hold closed meetings for discussion or consideration of certain records excluded from the provisions of this article and the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

The FOIA Act (§ 2.2-3700 et seq. of the *Code of Virginia*) contains the following authorities applicable to this guidance:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

Consideration for maintaining the confidentiality of information included in an RMP regarding voluntary actions taken by the agricultural and silvicultural sectors must also be made.

§ 2.2-220.3. Development of strategies to collect land use and conservation information.

The Secretary of Natural Resources, with assistance from the Secretary of Agriculture and Forestry, shall establish and maintain a database of the critical data attributes for onsite best management practices implemented in the Commonwealth that limit the amount of nutrients and sediment entering state waters. The database shall document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia's water quality goals by sharing the data with the appropriate federal or state agencies. To the extent possible or appropriate, the database shall (i) be uniform in content and format to applications in the other states of the Chesapeake Bay watershed, (ii) maintain the confidentiality of information, and (iii) use existing methods of data collection including reports to the U.S. Department of Agriculture's Farm Service Agency, soil and water conservation districts, and localities for the purpose of land use valuation. Any information collected pursuant to this section shall be exempt from the Freedom of Information Act (§ 2.2-3700 et seq.).

The Resource Management Plans Regulations contain the following authorities applicable to this guidance:

4VAC50-70-70. Review of a Resource Management Plan.

A. Upon completion of a new or revised RMP in accordance with 4VAC50-70-50 and 4VAC50-70-60, the owner or operator or the RMP developer on behalf of the owner or operator, shall submit the RMP to the review authority. If the RMP developer is a district employee or district board member of the district that is the designated review authority, the department shall serve as the review authority for that RMP.

B. Each soil and water conservation district shall establish a Technical Review Committee (TRC). RMPs received by a soil and water conservation district shall be referred to the TRC for review to ensure the RMP fully meets the minimum standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50. [Following review, the TRC provides recommendations to the soil and water conservation district board regarding RMPs.] ...

IV. Discussion and Interpretation:

The Department's RMP regulations (4VAC50-70-10 et seq.) require a District Board to set up a TRC, which will review the RMPs and provide recommendations to the District Board. The District board votes on the RMP. While conducting the review and associated meetings, the TRC and District Board must protect personal and proprietary information associated with an RMP.

FOIA [§ 2.2-3705.6 (25) of the *Code of Virginia*] provides an exclusion for information of a proprietary nature furnished by an agricultural landowner or operator pursuant to an RMP, and the Resource Management Plans Act [§ 10.1-104.7 (E) of the *Code of Virginia*] specifies that any personal or proprietary information collected pursuant to the Act shall be exempt from FOIA, except where specifically permitted in accordance with the section. Further, § 2.2-220.3 of the *Code of Virginia* specifies that information collected pursuant to voluntary actions taken by the agricultural and silvicultural sectors shall be maintained as confidential and is also exempt from FOIA.

In order to prevent public disclosure of such protected information, a closed meeting to discuss such information as it relates to RMPs is provided for in § 2.2-3711 (A) (45) and referenced in § 10.1-104.7 (E) of the *Code of Virginia*.

For the purposes of the closed meeting exemption, "personal information" should be understood as information that reveals the identity of the applicant or location of the tract: for example, any and all maps or geographic references. The applicant's suite of BMPs (including the specifics of each component) is not "proprietary information" so long as those BMPs, and any associated soil studies and other information, are not linked to the applicant or the tract's location thus the release of such information would not inhibit a business or have an economic impact on it should such information be generally disclosed. Where a FOIA question arises, the Districts should consult with legal counsel at the Office of the Attorney General.

Documents furnished by an owner or operator are excluded from FOIA and should not be released. Other documents (not furnished by an owner or operator) that contain personal or proprietary information should not be released or should be redacted. Districts should contact legal counsel as questions arise regarding what can be disclosed and in what manner.

Below is a list of items not subject to FOIA:

General Information

- Any 1619 information (farm, tract, and field) [available as a USDA Section 1619 Cooperator]; and
- Social security numbers and tax id numbers.

Specific RMP Information

- RMP-1 and RMP-2 BMP applications/approvals/contracts;
- RMPs and associated documents and plans;
- Farm assessment for an RMP;
- Attachments (pdf, pics, etc) to an RMP;

- Maps developed for an RMP; and
- RMP data contained in the Conservation Planning and RMP Modules.

Below is a list of items that will contain protected personal or proprietary information and which must be redacted if released:

- RMP inspection documents;
- RMP corrective action agreements;
- E-mails and letters associated with a specific RMP regarding RMP development, review, Certificate issuance, modification, and revocation;
- RMP developer applications; and
- Any information regarding an RMP developer except information released on the Department's website.

Because the law specifies a permissible way to release the RMP gathered information (i.e., in statistical or aggregate form) by the Director or upon the certification for release by the person who is the subject of the information, release in other forms is prohibited by law. Thus, if a District receives a FOIA request for an RMP or list of applicants, it should, pursuant to § 2.2-3704 (B) (1) or (B) (3) of the *Code of Virginia*, timely respond that the District is prohibited by law from releasing the RMP information and refer the requester to the Department.

FOIA also requires that all meetings of public bodies shall be open, unless otherwise exempted. A District Board falls within the FOIA definition of a public body. Additionally, a TRC also qualifies as a public body under FOIA, as it is a committee created to advise a public body (despite including citizen members).

However, in accordance with § 2.2-3711 (A) (45) of the Code of Virginia, the discussion or consideration of personal and proprietary information that is excluded from the provisions of FOIA pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7 by a TRC or District Board may be handled in a closed meeting, or other options to protect the disclosure of personal and proprietary information may also be considered.

A TRC or District Board may utilize either one or a combination of the following three options to discuss the RMP. It is important to realize; however, that the TRC or District Board must always conduct the recommendation for approval or RMP approval vote, respectively, in an open meeting. This document will provide further guidance regarding each of the options listed below:

1. A TRC or District Board may go into closed session to discuss personal and proprietary information regarding an RMP. (This option will provide for the most streamlined process and create the least opportunity for the accidental disclosure of personal, proprietary, or confidential information.)
2. A TRC or District Board may redact personal, proprietary, and otherwise confidential information from the discussion packet and conduct the entire meeting in an open meeting. In an open meeting, the plan must be referenced only by a plan number.
3. A District Board may delegate RMP approval (following TRC review and recommendation) to a single individual who would approve the RMP outside of a meeting. [It is strongly recommended that such actions should be reported back to the

District Board and be reflected in District Board minutes to ensure continuity of RMP records.]

1) CLOSED MEETING GUIDELINES FOR DISCUSSION OF PERSONAL AND PROPRIETARY INFORMATION ASSOCIATED WITH A RESOURCE MANAGEMENT PLAN

Closed meetings of public bodies are permitted only for one or more of the purposes specified in the Virginia Freedom of Information Act (FOIA), § 2.2-3711 (A). Any exemption from public access to meetings or records shall be narrowly construed.

A TRC or District Board may go into closed session to discuss personal and proprietary information regarding an RMP. Section 2.2-3711 of the *Code of Virginia* authorizes a closed meeting for discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of Code § 2.2-3705.6 or (ii) subsection E of Code § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been authorized for release by the person who is the subject of the information. It also does not apply to information that has been transformed into statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

This exclusion will allow the TRC or District Board to go into closed session to discuss only the portions of an RMP that are considered personal and proprietary information. Any motion to recommend a plan or decline a plan by the TRC, or to approve or decline a plan by the District Board, must happen in open session. The vote must also occur in open session. Members may state on the record why they voted the way they did, but may not reveal any personal or proprietary information. The meeting minutes for the open session must be in writing and must capture: (i) the date, time, and location of the meeting; (ii) the members of the public body recorded as present and absent; and (iii) a summary of the discussion on matters proposed, deliberated, or decided, and a record of any votes taken (§ 2.2-3707 (H) of the *Code of Virginia*). When the meeting becomes open, the plan should be referenced by the plan number. Only redacted plans should be allowed in the open meeting. If the person who is subject of the information has authorized release of such information, the exemption no longer applies.

Going Into Closed Meetings:

1. A motion by a public body to hold a Closed Meeting must specifically state the purpose(s) for the session and reasonably identify the subject matters to be discussed. Specific reference must be made to the statutory authority for the Closed Meeting. A general reference alone is not sufficient. § 2.2-3712 (A) of the *Code of Virginia*.
*See sample motion 1 below.
2. Nothing may be discussed in the Closed Meeting except matters included in the motion to go into Closed Meeting. § 2.2-3712 (C) of the *Code of Virginia*.

3. Minutes during a Closed Meeting are not required, and if taken are not subject to public disclosure. § 2.2-3712 (I) of the *Code of Virginia*.
4. Only public body members and those individuals with relevant information useful in the plan review process invited by the public body shall be included in the Closed Meeting. § 2.2-3712 (F) of the *Code of Virginia*.
5. Though not specifically required by law, an estimated time to reconvene should be announced or included in the motion so that the public will know when to return.

***Sample Motion 1**

I move the [public body] go into Closed Meeting in accordance with the Virginia Freedom of Information Act § 2.2-3711 (A) (45) for discussion or consideration of personal and proprietary information excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of §10.1-104.7, Review of a Resource Management Plan.

This closed meeting will be attended only by members of the [public body]. However, pursuant to § 2.2-3712 (F), the [public body] requests [ex. the RMP developer for plan # XXX] to also attend this meeting, as it believes their presence will reasonably aid the [public body] in its consideration of topics that are the subject of the meeting.

Coming Out of Closed Meetings:

1. At the conclusion of any closed meeting, the public body must reconvene into the open meeting. § 2.2-3712 (D) of the *Code of Virginia*.
2. The public body must have a roll call and recorded vote of a motion to be included in the minutes that states the members in the Closed Meeting heard, discussed or considered only:
**See sample motion 2 below
 - (1) Public business matters specifically identified in the original motion to convene into Closed Meeting
AND
 - (2) Public business matters lawfully exempted from open meeting requirements. § 2.2-3712 (D) of the *Code of Virginia*.
3. A Certification of Closed Meeting that becomes a part of the official minutes must be adopted when the open meeting reconvenes. This resolution assures the public body fulfills the obligations set forth in FOIA. (See attached Certification example.)

4. Any resolution, motion, or decision made during the Closed Meeting must be presented and voted on during an open meeting of the public body. §§ 2.2-3711(B) and 2.2-3712(H) of the *Code of Virginia*.
5. Any member of the public body who believes that there was a departure from the requirements of clauses 2. (1) and (2) outlined above shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body. § 2.2-3712 (D) of the *Code of Virginia*. [The Certification of Closed Meeting document included below may be used to certify the meeting].

***Sample Motion 2**

Pursuant to the § 2.2-3712 (D) of the *Code of Virginia*, I move to certify that, to the best of each member's knowledge, only matters lawfully exempted and identified in the motion by which the Closed Meeting was convened were heard or discussed by this [public body] during the Closed Meeting. (This motion is considered a Certification of a Closed Meeting)

I move for the adoption of resolution #*[X]*, Certification of Closed Meeting, which confirms that only those matters that were identified and lawfully exempted were discussed during the Closed Meeting. (A sample Certification is included below.)

Certification of Closed Meeting

MEETING DATE: _____

RESOLUTION # _____

MOTION:

WHEREAS, the [public body] has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by the [public body] that a closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the [public body] hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as identified in the motion convening the closed meeting were heard, discussed or considered by the [public body].

MOTION BY: _____

SECOND BY: _____

VOTES (requires roll call vote)

AYES:

NAYS:

[For each nay vote, the substance of the departure from the requirements of the Act should be described]

ABSENT DURING VOTE:

ABSENT DURING MEETING:

Secretary of [public body]

2) OPEN MEETING GUIDELINES FOR DISCUSSION OF A RESOURCE MANAGEMENT PLAN

A TRC or District Board may redact personal information from the information packet and conduct the entire meeting in an open meeting. Confidential information regarding voluntary BMPs must also be redacted. In an open meeting, the RMP must be referenced only by a plan number and personal and proprietary information must be protected from disclosure to the public.

If the TRC or District Board reviews or discusses personal or proprietary RMP information in an open meeting, District staff should mask or otherwise redact personal information (name, address, etc.) from the RMP packet before it is copied and provided to the TRC. To the extent it is possible to redact other identifying information without compromising the TRC's ability to evaluate the RMP, District staff should do so.

Each RMP should have an assigned plan number to be referenced in public meetings of the TRC and District Board.

Staff should attach a cover page or header reminding the TRC or District Board that disclosure of identifying information is prohibited by law.

TRC and District Board members should be reminded at the meeting that personal and proprietary information is protected from disclosure and that they should tailor their discussion accordingly. The following announcement, or one like it, would be appropriate: "It is prohibited by law to disclose personal or proprietary identifying information of an RMP applicant. Members are reminded to take care to ensure that identifying information is not disclosed."

In open meetings where the public is present, reference should be made to page/line numbers ("the BMP identified on page 4, line 10" or "the acreage identified on page 7 line 2", etc.) to the extent reasonably possible. Common sense should be utilized to discuss each RMP in a fashion that will not reveal personal or proprietary information of the protected individuals.

3) DELEGATION OF RMP APPROVAL TO A SINGLE INDIVIDUAL

Following development of a recommendation by the TRC, and in lieu of action by the full District Board, a District Board may delegate RMP approval to a single individual who would approve the RMP outside of a meeting. District directors "may delegate to their chairman or to one or more district directors, agents or employees such powers and duties as they may deem proper." § 10.1-533 of the *Code of Virginia*. A District Board is therefore empowered to delegate to one director, agent, or employee the power and duty of RMP approval. [It is strongly recommended that such actions should be reported back to the District Board and be reflected in District Board minutes, in accordance with the delegation charge, to ensure continuity of RMP records.]

MEETING PACKETS

FOIA requires that "[a]t least one copy of the proposed agenda and all agenda packets and, **unless exempt**, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body." (§ 2.2-3707 (F) of the *Code of Virginia*). However, the protected RMP documents printed for the TRC and District Board (unless properly redacted) **need not be provided to the public**. Because the information remains protected after a meeting, it is also advisable that the packets provided to the members be collected at the close of a meeting.

V Adoption, Amendments, and Repeals:

This document will remain in effect until repealed or superseded.

Guidelines for Meeting through Electronic Communications in Non-Emergency and Emergency Situations

The purpose of this document is to provide some basic information about meetings held through electronic communications means as per §2.2-3708.2 and §2.2-3708.3 as they apply to Virginia's Soil and Water Conservation Districts (SWCDs). Prior to September 1, 2022, all provisions for electronic communications meetings were found in §2.2-3708.2. Effective September 1, 2022, provisions for electronic communications meetings, including the new provision for all-virtual public meetings, can be found in §2.2-3708.2 and §2.2-3708.3. This document addresses provisions effective September 1, 2022. Please reference §2.2-3708.2 and §2.2-3708.3 for the full code reference. For a more thorough and detailed explanation of this section of FOIA and for sample electronic communication participation policy language, please reference the Virginia FOIA Council's document titled *Electronic Meetings Under the Virginia Freedom of Information Act* which can be found at <https://foiacouncil.dls.virginia.gov/ref/E-Meetings%20Guide%202023.docx>.

General Overview of the Use of Electronic Communications Meetings

❖ What are the three general categories of electronic meetings?

- 1) Remote Participation: "...participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled."
- 2) All-Virtual Public Meetings: "...a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means".
- 3) State of Emergency: Requires declaration by the Governor or the locality where the public body is located.

Code § 2.2-3701; § 2.2-3708.2; § 2.2-3708.3 (Emphasis Added).

❖ Are there any specific requirements that need to be included in minutes taken at electronic communications meetings?

Yes. "...for electronic communications meetings conducted in accordance with § 2.2-3708.2 or § 2.2-3708.3, minutes shall include:"

- 1) "...the identity of the members of the public body who participated in the meeting through electronic communication means,"
- 2) "...the identity of the members of the public body who were physically assembled at one physical location," and

This overview was prepared by staff of the Virginia Department of Conservation and Recreation for members of the Commonwealth's Soil and Water Conservation Districts as a means of raising awareness and understanding about certain provisions of the Virginia Freedom of Information Act. It should be used as a companion reference to the [Code of Virginia](#). It is not intended to serve as a legally binding interpretation of the Act or its provisions. Should an interpretation be needed, contact the VA FOIA Advisory Council (foiacouncil@dls.virginia.gov or 1-866-448-4100) or your OAG Representative. You may also visit the FOIA Advisory Council's website at <http://foiacouncil.dls.virginia.gov/> for additional information.

3) "...the identity of the members of the public body who were not present at the location identified in clause (2) but who monitored such meeting through electronic communication means."

Code § 2.2-3707(I).

❖ **Are there any prohibitions on using electronic communications in order to increase public participation in public meetings?**

No. A public body is encouraged to provide additional ways for the public to participate in meetings beyond that of the physically assembled location and avenues for public comment (Code § 2.2-3708.3(A)). The provisions in §2.2-3708.3 do not apply to the participation of the general public but to the participation of members of the public body.

❖ **Are there any requirements that must be met before a public body can utilize the remote participation and the all-virtual public meeting provisions to address the need for meeting through electronic communications as noted in §2.2-3708.3(B) and in §2.2-3708.3(C), respectively?**

Yes. The public body must have a policy in place as noted in the code reference below.

Code § 2.2-3708.3(D):

"Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting..."

It is important to note that if a member uses electronic communications to join a meeting and the public body has not yet adopted a written electronic communications meeting participation policy, then the member is limited to a listening and/or watching role only. The member cannot participate in discussion or vote since FOIA does not allow for application of the provision until the public body has formally adopted a written policy allowing for and governing electronic communications participation.

❖ **Are there any specific requirements that must be met with the policy?**

Certainly!

"...The policy shall:

- 1) "Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests;" and
- 2) "Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9."

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Code § 2.2-3708.3(D)(1-2).

❖ **Do the remote participation and all-virtual public meeting provisions apply to committees?**

Absolutely! However, in order for committees to utilize this provision, each respective committee may adopt its own policy, or the public body may adopt a policy on behalf of its committees and denote the applicability of the policy to the committees in the committees' use of the remote participation and all-virtual public meeting provisions.

This adoption and the specific applicability of the policy to committees must be recorded explicitly in the minutes. General approval adoption of a policy does not automatically extend to committees...

Code § 2.2-3708.3(D):

“Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee or other entity that shall apply to the committee, subcommittee, or other entity’s use of individual remote participation and all-virtual public meetings.”

Remote Participation Provision:

❖ **When can a member of a public body use the remote participation provision?**

The Code of Virginia allows a public body to use this provision when:

- 1) "The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;"
- 2) "A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;"
- 3) "The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting;"
- 4) The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater."

Code §2.2-3708.3(B)(1-4).

❖ **Is a quorum required in order for a member to use this provision?**

Yes! This is stated in the definition of “remote participation” as noted in the code reference below.

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Code § 2.2-3701:

““Remote participation” means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.”

❖ **Is advance notice from the requesting member required?**

Yes, the member must notify the public body chair of the member’s inability to attend the meeting due to one of the circumstances listed above.

Code § 2.2-3708.3(B):

“Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting...the member notifies the public body chair that...”

❖ **Does the reason need to be cited in the minutes?**

Yes! The Code prescribes a certain level of documentation that is required to be in the public meeting minutes. Please note that the specific disability or medical condition does not have to be recorded in the minutes.

Code § 2.2-3708.3(B):

“...If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member’s physical attendance or (ii) family member’s medical condition that required the member to provide care for such family member, thereby preventing the member’s physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member’s principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.”

❖ **Does the remote location of the member using the provision in subsection B have to be open to the public?**

No, the remote location of the member does not have to be open to the public but should be recorded in the minutes.

Code § 2.2-3708.3(B):

“If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description.”

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❖ **What if the request for use of the provision in subsection B is disapproved?**

If the request is disapproved, the disapproval shall be recorded in the minutes with specificity. The member may still call into the meeting but only as a listener rather than a participant and may not make motions, vote or participate.

Code § 2.2-3708.3(B):

“If a member’s participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.”

All-Virtual Public Meeting Provision:

❖ **How often can a public body use the all-virtual meeting provision?**

Per the Code of Virginia, a public body cannot convene an all-virtual public meeting:

- 1) “...more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater;” or
- 2) “...consecutively with another all-virtual public meeting”

Code §2.2-3708.3(C)(9)

❖ **Is a quorum required in order for a member of a public body to use this provision?**

No! This is stated in the definition of “all-virtual public meeting” as noted in the code reference below.

Code § 2.2-3701:

““All-virtual public meeting” means a public meeting...during which all members of the public body who participate do so remotely rather than being assembled in one physical location...”

❖ **Are there any special logistical requirements associated with this provision?**

Yes, there are 10 requirements that must be met by a public body when using this provision.

- 1) “An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of §2.2-3707;”
- 2) “Public access to the all-virtual public meeting is provided via electronic communication means;”
- 3) “The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;”

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- 4) “A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;”
- 5) “A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of the public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;”
- 6) “The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;”
- 7) “No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access;”
- 8) “If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of §2.2-3712;”
- 9) “The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and”
- 10) “Minutes of all-virtual public meetings held by electronic communication means are taken as required by §2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held...”

Code §2.2-3708.3(C)(1-10).

❖ **What if a member’s use of the provision in subsection C is disapproved?**

The disapproval shall be recorded in the minutes with specificity. The member may still call into the meeting but only as a listener rather than a participant and may not make motions, vote or participate.

Code § 2.2-3708.3(C)(10):

“If a member’s participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.”

State of Emergency Provision:

❖ **What meeting provision is in place for public bodies in emergency situations?**

“Any public body...may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a

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state of emergency...or the locality in which the public body is located has declared a local state of emergency..."

Code § 2.2-3708.2.

❖ **Are there specific applications of this provision?**

Yes. A public body cannot simply use this provision to hold an electronic meeting. It must meet two requirements set forth in the Code.

- 1) "...the catastrophic nature of the declared emergency makes it impractical or unsafe to assemble a quorum in a single location and..."*and*
- 2) "...the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities."

"The provisions of this section shall be applicable only for the duration of the emergency declared..."

Code § 2.2-3708.2.

❖ **Are there any requirements that need to be met when using this provision?**

Of course! Per the Code, "The public body convening a meeting in accordance with this section shall:

- 1) Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
- 2) Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
- 3) Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
- 4) Otherwise comply with the provisions of this chapter.

Code § 2.2-3708.2(1-4).

❖ **Are there any specific notations that should be included in the minutes when using this provision?**

Yes. "The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes."

Code § 2.2-3708.2.

❖ **Does a SWCD need to have a policy in place in order to utilize this provision?**

No, an adopted electronic communications policy is not required when using the electronic communications provision for emergency situations.

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ELECTRONIC MEETINGS UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT

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Appendix: Best Practices Recommendations for All-Virtual Public Meetings



ELECTRONIC MEETINGS UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT

I. Introduction

Prior to September 1, 2022, the provisions of the Virginia Freedom of Information Act (FOIA) concerning electronic meetings¹ were found in § 2.2-3708.2 of the Code of Virginia. As of September 1, 2022, the FOIA provisions concerning electronic meetings are found in § 2.2-3708.2 and new § 2.2-3708.3. These two Code sections separate electronic meetings into two general categories:

1. Electronic meetings held other than during a declared state of emergency, which includes both remote participation by individual members and all-virtual public meetings (in new § 2.2-3708.3); and
2. Electronic meetings held during a declared state of emergency (in § 2.2-3708.2).

Note that electronic meetings held during a declared state of emergency are also addressed in the State Budget.² The procedures for holding electronic meetings under a declared state of emergency as of September 1, 2022, are substantively identical to the same procedures prior to September 1, 2022. However, the procedures for individual members using remote participation are similar but not identical to the equivalent provisions prior to September 1, 2022. Specifically, the provisions that allow remote participation by individual members of public bodies are largely the same regarding participation due to personal matters, a member's medical condition or disability, or the need to provide medical care for a family member. However, the provision allowing remote participation for a member whose principal residence is 60 miles or more from the meeting location, which was previously available only to regional public bodies, may be used by all public bodies as of September 1, 2022. The procedures for all-virtual public meetings are new. Unless otherwise specified, this guide is written to correspond to the law effective as of September 1, 2022.

Note: Annual report and public comment form no longer required

As of September 1, 2022, there is no equivalent to the provisions of former subsection D of § 2.2-3708.2, which allowed certain electronic meetings to be conducted by state-level public bodies. That subsection included the requirement for public bodies to report their experiences with electronic meetings to the FOIA Council and to make available to the public a public comment form so that members of the public could comment regarding their experiences with electronic meetings. The annual report and availability of the public comment form are no longer required as of September 1, 2022.

¹ The phrase "electronic meeting" is used herein to refer to all types of meetings conducted using electronic communications, but it is not a defined term under FOIA.

² State Budget Item 4-0.01 (g) (originally added to address the COVID-19 pandemic); 2020 Session Acts of Assembly, c. 1289; 2020 Special Session I Acts of Assembly, c. 56; 2021 Special Session I Acts of Assembly, c. 552; 2022 Special Session I Acts of Assembly, c. 2.



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Note: Public participation and public comment

Former subsection E of § 2.2-3708.2 provided that "[n]othing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation." As amended effective September 1, 2022, subsection A of § 2.2-3708.3 explicitly encourages public bodies to

1. Provide public access, both in person and through electronic communication means, to public meetings; and
2. Provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

If members of a public body are physically assembled at one location but wish to allow members of the public to listen or provide comment electronically, there are no restrictions on doing so. In other words, the heightened procedural requirements that apply to members of the public body do not apply to the public or other persons such as employees and guest presenters. Public bodies may use electronic means to increase public access even if no members are participating electronically (such as by broadcasting via radio or television or online even when a meeting is held entirely in person). The specific requirements and limitations on electronic participation described in this guide apply only to the members of the public body holding a public meeting.

Additionally, as of July 1, 2023, § 2.2-3707 was amended to add a new subsection B that explicitly allows state public bodies to provide public access and public comment by electronic means as follows:

- B. All state public bodies subject to the provisions of this chapter:
 1. May allow public access to their meetings through electronic communication means, including telephone or videoconferencing, if already used by the state public body;
 2. May provide the public with the opportunity to comment through the use of such electronic communication means at such meetings at the point when public comment is customarily received; and
 3. Shall otherwise comply with the provisions of this chapter.

No cause of action shall arise against a state public body for accidental or involuntary loss of audio or video signal or inability of the public to comment through the electronic communications means described in this subsection.³

Note that new subsection B as quoted above applies to all types of public meetings regardless of whether the meeting is conducted in person, by electronic means, or a combination of both.

Note: Member participation and monitoring meetings electronically

So long as all of the appropriate procedural requirements are met, a member participating in a meeting using electronic communication may participate in discussions, make motions, vote, join in closed meetings, and otherwise participate fully as if such member was physically present. If

³ 2023 Acts of Assembly, c. 536.

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the procedural requirements are not met, however, then the member may only monitor the meeting (i.e., listen or watch, depending on the technology used) and cannot otherwise participate.

If a member is monitoring a meeting but not participating, as a matter of best practices, it is suggested that the chair of the public body make a statement to inform the public and the other members, such as:

"Please observe that [member name] could not attend today's meeting, but is [listening/watching] the meeting [by speakerphone, videoconference, or whatever electronic communication means is being utilized]. However, [member name] is only monitoring the meeting. [He/she] is not counted as present and cannot make motions, vote, or otherwise participate."

Definitions (§ 2.2-3701)

The definitions included below are specifically relevant to meetings conducted using electronic communications, but keep in mind that the other definitions in § 2.2-3701 also apply to electronic meetings as appropriate.

The definition of "electronic communication" was amended in 2018⁴ and subsequently is applicable to all of the types of electronic participation allowed under §§ 2.2-3708.2 and 2.2-3708.3:

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

This definition is meant to be broad enough to include all of the different types of technology that might be used for electronic communication, whether audio-only (such as telephone or radio technology), visual-only (such as text messaging or email), or both (such as television and many online virtual meeting platforms).

The following two definitions are effective as of September 1, 2022.⁵ These definitions distinguish between meetings where a public body has assembled a quorum in one physical location but one or more members is participating by electronic communication and meetings where there is no quorum physically assembled in one location and all of the members are participating using electronic communication:

"All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means.

"Remote participation" means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.

⁴ 2018 Acts of Assembly, c. 54

⁵ 2022 Acts of Assembly, c. 597.



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The procedural requirements and limitations applicable to the various types of electronic meetings are described in the rest of this guide.

Please do not hesitate to contact the FOIA Council with any questions you may have concerning the requirements for conducting meetings using electronic communications.

Toll-Free Telephone: 1-866-448-4100
Email: foiacouncil@dls.virginia.gov



II. Remote participation and all-virtual public meetings (§ 2.2-3708.3)

A. Policy requirement

Subsection D of § 2.2-3708.3 requires that public bodies adopt a participation policy before using the provisions for remote participation or all-virtual public meetings. Note that no policy is required for meetings conducted under § 2.2-3708.2 during a declared state of emergency. This policy requirement is similar but not identical to the policy requirement in former subsection C of § 2.2-3708.2 prior to September 1, 2022—public bodies that adopted policies prior to that date may need to adopt new versions of their policies to stay in compliance! The public body must adopt the policy by recorded vote at a public meeting and the policy must "be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting." The policy must also do the following:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

The public body may set forth more restrictive limitations regarding the circumstances under which remote participation is allowed than the statutory limits set forth in FOIA, but it may not expand such participation beyond those statutory limits. The referenced subdivisions B 4 and C 9 of § 2.2-3708.3 set out the numerical limitation on remote participation due to personal matters and all-virtual public meetings, respectively, both of which are limited to two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Additionally, an all-virtual public meeting may not be held consecutively with another all-virtual public meeting.

Note: Count participation separately for different types of meetings and for meetings of different public bodies

First, note that the limits on remote participation due to personal matters are separate from the limits on all-virtual public meetings and should be counted separately. For example, if an individual member had already reached his limit on participation due to personal matters, but the public body scheduled an all-virtual public meeting, the member could still participate in the all-virtual public meeting because these numerical limits are counted separately for the different types of electronic meetings. Public bodies may set lower numerical limits on such meetings by policy, but they may not exceed the statutory limits of two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Note also that these statutory numerical limits apply only to remote participation due to personal matters and to all-virtual public meetings, not to other types of remote participation allowed under FOIA. In other words, members can use the other types of remote participation (due to medical condition or disability, providing medical care for a family member, or due to the distance of the member's principal residence from the meeting location) an unlimited number of times, unless the public body chooses to adopt a policy that places a numerical limit on those types of remote participation.



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Second, public bodies may also adopt such a participation policy on behalf of any committee, subcommittee, or other entity that it creates. Keep in mind that such committees, subcommittees, and other entities are public bodies in their own right as defined in § 2.2-3701.⁶ Because they are separate public bodies, meetings of such committees, subcommittees, and other entities are counted separately from meetings of the public body that created them when determining whether a member has reached the numerical limit for remote participation due to personal matters and whether the limit regarding all-virtual public meetings has been reached (both regarding number and consecutive meetings). For example, if a member had reached the limit on participation due to personal matters in meetings of the main public body, he could still participate remotely due to personal matters in meetings of any committee, subcommittee, or other entity on which he serves (presuming he has not reached the limit for that committee, subcommittee, or other entity as well). Note again that public bodies may also set lower numerical limits on such meetings of their committees, subcommittees, or other entities, just as they can for the main public body, but they may not exceed the statutory limits.

Note: Public bodies may adopt a policy on electronic participation and members may use it at the same public meeting

If a member wishes to participate remotely but the public body has not yet adopted a policy on doing so prior to the meeting, it is still an option. So long as a quorum of the public body is assembled physically in one location first, that quorum may vote to adopt a participation policy as required by law during the public meeting. Then, after the policy has been adopted, the public body may allow the other member(s) to participate remotely for the rest of the meeting.

Sample policy language

In order to facilitate compliance with this requirement, the FOIA Council has prepared sample language that public bodies may use in crafting their own policies. This sample language is based on the language of the statute itself and includes both the basic policy statement and the limitations set forth in the law.

Sample language:

It is the policy of [the public body] that individual [public body] members may participate in meetings of [the public body] by electronic communication as permitted by § 2.2-3708.3 of the Code of Virginia. [If the public body wishes to add any additional limitations on the circumstances under which members may participate by electronic communications, include them here.] This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Whenever an individual member wishes to participate from a remote location, the law requires a quorum of [the public body] to be physically assembled at the primary or central meeting location.

⁶ The definition of "public body" includes, among other entities, "any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body."



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When such individual participation is due to a personal matter, such participation is limited by law to two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. [If the public body wishes to add any additional limitations on such remote participation, include them here.]

Further, it is the policy of [the public body] that [the public body] may hold all-virtual public meetings pursuant to subsection C of § 2.2-3708.3. Such all-virtual public meetings are also limited by law to two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Additionally, an all-virtual public meeting may not be held consecutively with another all-virtual public meeting. [If the public body wishes to add any additional limitations on such all-virtual public meetings, include them here.]

Policy must include processes on making requests, approving or denying requests, and recording requests

As part of the policy requirement, each public body must adopt three processes: one for making requests to use remote participation, one for approving or denying such requests, and one for creating a record of such requests. There are several possible mechanisms a public body might use; so long as the processes adopted do not violate the express provisions of § 2.2-3708.3, each public body may choose whichever processes it prefers. As an example, a public body might adopt a policy as follows:

- That the member notifies staff to make the request and staff then notifies the chair (since the chair must be notified of requests for remote participation, but as a practical matter, most public bodies rely on staff to make the technical arrangements for members to participate remotely);
- That approval is automatic unless a member's participation would violate FOIA, and, if such participation is challenged, then the matter would be put to a vote; and
- That the request is recorded in the minutes of the meeting.

Sample language:

Requests for remote participation or that [the public body] conduct an all-virtual public meeting shall be conveyed to ["staff" or "the clerk or chief administrator for the public body"] who shall then relay such requests to the chair of the public body.

Individual participation from a remote location shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia). If a member's participation from a remote location is challenged, then [the public body] shall vote whether to allow such participation.

The request for remote participation or that [the public body] conduct an all-virtual public meeting shall be recorded in the minutes of the meeting. If [the public body] votes to disapprove of the member's participation because such participation would violate this policy, such disapproval shall be recorded in the minutes with



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specificity. The minutes shall include other information as required by §§ 2.2-3707 and 2.2-3708.3 depending on the type of remote participation or all-virtual public meeting.

Additional limitations and other provisions are optional

Additional policy provisions may be included as each public body sees fit, so long as they do not violate the express provisions of FOIA. It is up to each public body to decide for itself whether to adopt any such additional policy provisions.

B. Remote participation by individual members of public bodies

When a meeting is scheduled to be held in person, there are four circumstances set out in subsection B of § 2.2-3708.3 where individual members of a public body may participate from a remote location instead of participating in person. In order to use these provisions, the public body must first adopt a policy on electronic participation as described above and the member must notify the chair of the public body of one of the following four reasons for remote participation:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

Reminder: As stated previously, the limitation to two meetings per calendar year or 25 percent of the meetings held per calendar year does not apply to the first three types of remote participation (member's disability or medical condition, need to provide medical care for a family member, or principal residence distance from the meeting location), it only applies when the member participates remotely due to a personal matter.

Minutes requirements

- If an individual member remotely participates in a meeting, a general description of the remote location must be included in the minutes (it does not need to be an exact address—for example, the minutes might read that "[Member] participated from his home in [locality]" or that "[Member] participated from her office in [locality]."). The remote location does not have to be open to the public.
- If a member remotely participates due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance, that fact must be included in the



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minutes. While the fact that a disability or medical condition prevents the member's physical attendance must be recorded in the minutes, it is not required to identify the specific disability or medical condition.

- If a member remotely participates because the member's principal residence is more than 60 miles from the meeting location, the minutes must include that fact.
- If a member remotely participates due to a personal matter, the minutes must include the specific nature of the personal matter cited by the member.
- As stated above, if remote participation by a member is disapproved because it would violate the participation policy adopted by the public body, such disapproval must be recorded in the minutes with specificity. Note that even if remote participation is disapproved, the member may continue to monitor the meeting from the remote location but may not participate and may not be counted as present at the meeting.

Examples of disability or medical condition that prevents physical attendance:

- Temporary hospitalization or confinement to home;
- Contagious illness; or
- Any temporary or permanent physical disability that physically prevents travel to the meeting location.

Examples of personal matters that may prevent physical attendance:

- Flat tire or other mechanical failure on the way to the meeting;
- Traffic congestion or stoppage;
- Personal, family, or business emergency;
- Blizzard, flood, or other severe weather conditions that prevent travel to the meeting location;
- Business trip;
- Family trip; or
- Scheduling conflict.

C. All-virtual public meetings

The provisions for all-virtual public meetings under subsection C of § 2.2-3708.3 may be used by all public bodies except "local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license." In order to do so, a public body must comply with the other meetings requirements of FOIA, must adopt a policy as previously described, and must comply with the following 10 additional statutory requirements:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;



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2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to these requirements is disapproved because such participation would violate the policy adopted pursuant to subsection D of § 2.2-3708.3, such disapproval shall be recorded in the minutes with specificity.

See the Appendix for Best Practices Recommendations for All-Virtual Public Meetings on public comment and the use of video by members.



III. Electronic meetings conducted under a declared state of emergency (§ 2.2-3708.2 and State Budget Item 4-0.01 (g))

There are currently two different procedures for conducting electronic meetings during a declared state of emergency, one in FOIA as described in subsection III A below, the other in the State Budget as described in subsection III B below. Prior to the COVID-19 pandemic, the state of emergency provisions in FOIA had only been used to address short-duration emergencies such as acute weather conditions that required immediate responses (hurricanes, tornadoes, snowstorms, etc.). In 2020, those provisions allowed meetings only to address the declared state of emergency, and not for any other purposes. Because of the duration of the COVID-19 pandemic and the requirements for quarantine and social distancing in effect at that time, the existing provisions were deemed inadequate as they did not allow public bodies to use electronic meetings for any other purposes, i.e., conducting normal business. The State Budget provisions described below were enacted in 2020 to provide a mechanism for public bodies to conduct such other public business during the ongoing state of emergency.⁷ In 2021, the FOIA provisions addressing electronic meetings during a state of emergency were amended to reflect the experiences of public bodies, citizens, and the media when using electronic meetings during the COVID-19 pandemic and to account for such longer-duration states of emergency in the future.⁸ Note that in addition to differing procedural requirements, the FOIA provisions allow for electronic meetings during a state of emergency declared both by the Governor and by localities, whereas the Budget provisions only address a state of emergency declared by the Governor. However, the Budget provisions are applicable to common interest community governing boards as well as public bodies subject to FOIA, whereas the FOIA provisions are applicable only to public bodies. Both sets of provisions remain in the law as of September 1, 2022, so public bodies may use either one as appropriate to the circumstance.

A. Electronic meetings conducted during a state of emergency declared by the Governor or a locality under § 2.2-3708.2

Pursuant to § 2.2-3708.2, any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17 or the locality in which the public body is located has declared a local state of emergency pursuant to § 44-146.21 under the following conditions listed in subdivision A 3 of § 2.2-3708.2:

- The catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and
- The purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities.

In addition, the public body must:

- Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

⁷ See n. 2, *supra*.

⁸ 2021 Special Session I, c. 490.

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- Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
- Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
- Otherwise comply with the provisions of FOIA.

Minutes requirements

The minutes must include the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.

Limitation on duration

The provisions of subdivision A 3 of § 2.2-3708.2 are applicable only for the duration of the emergency declared pursuant to § 44-146.17 or 44-146.21.

Note: No policy required

The requirements to adopt a policy as required for remote participation and all-virtual public meetings do not apply to meetings held under a declared state of emergency.

B. Electronic meetings conducted during a state of emergency declared by the Governor under State Budget Item 4-0.01 (g)

Pursuant to State Budget Item 4-0.01 (g), any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, subject to the following procedures and conditions:

- The nature of the declared emergency makes it impracticable or unsafe for the public body to assemble in a single location;
- The purpose of meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body and the discharge of its lawful purposes, duties, and responsibilities; and
- The public body makes available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1.

In addition, the public body must:

- Give notice to the public using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
- Make arrangements for public access to such meeting through electronic means, including, to the extent practicable, videoconferencing technology. If the means of communication allows, provide the public with an opportunity to comment;
- Otherwise comply with the provisions of § 2.2-3708.2; and



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- State in the minutes the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.

Note: This budget item also provides for electronic meetings to be held by governing boards of common interest communities such as condominium unit and property owners' associations. Such governing boards are not public bodies subject to FOIA but are subject to their own laws concerning access to records and meetings. Because the FOIA Council is limited to providing guidance regarding FOIA, provisions in State Budget Item 4-0.01 (g) that are specific to common interest communities have been omitted from this guide. Please direct any inquiries regarding records and meetings of common interest communities to the Office of the Common Interest Community Ombudsman within the Department of Professional and Occupational Regulation as follows:

PHONE (804) 367-2941

FAX (866) 490-2723

EMAIL CICOmbudsman@dpor.virginia.gov



Appendix: Best Practices Recommendations for All-Virtual Public Meetings

The second enactment clause of HB 444 (Bennett Parker, 2022) directed the FOIA Council to convene a work group to study best practices for all-virtual public meetings as follows:

That the Virginia Freedom of Information Advisory Council shall convene a work group, no later than May 1, 2022, to develop recommendations for best practices for public bodies holding all-virtual public meetings, including but not limited to how to take public comment virtually and the proper use of video by public body members. Such recommendations must be completed by August 1, 2022. The work group shall include representatives of the Virginia Association of Counties, the Virginia Municipal League, the Virginia Coalition for Open Government, and the Virginia Press Association and such other stakeholders the Council deem appropriate.

The work group met twice in May 2022 to consider these and other issues. The participants included representatives of the Virginia Association of Counties, the Virginia Municipal League, the Virginia Coalition for Open Government, the Virginia Press Association, the Virginia School Boards Association, the Department of Professional and Occupational Regulation, the Department of Health Professions, the Department of Education, the Department for Aging and Rehabilitative Services, and the Department of Criminal Justice Services. The following are the work group's recommendations as agreed by consensus.

I. Public Comment

A. Statutory Provisions

- For all meetings conducted under FOIA, subsection F of § 2.2-3707 provides as follows: "The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received."
- For all electronic meetings conducted under § 2.2-3708.3, subsection A provides as follows: "Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods."
- Among other requirements for conducting all-virtual meetings under subsection C of § 2.2-3708.3, subdivision C 6 provides the following requirement: "The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;"
- Other laws may also have requirements for public comment that are specific to the type of public body and the type of meeting. For example, there are requirements to take public comment at certain meetings for local governing bodies in subsection D of § 15.2-1416, for school boards under § 22.1-79, and for governing boards of public institutions of higher education in § 23.1-307, etc.



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B. Best Practices Recommendations

Before the meeting:

- Notice: State in the meeting notice whether public comment will be taken during the meeting and/or by other means such as submitting electronic written comments in advance.
- It is recommended that all public bodies accept written comments by email or other means. Public bodies should consider posting the comments to the public body's website, if it has one, and providing the comments to the members in advance of the meeting. You may want to set a deadline for receiving comments in advance in order to ensure there will be time for members to review them and to post them (but still allow comments to be submitted after the deadline; just note that they may not be posted before the meeting if they are received late).
- Public bodies may ask people to register in advance for logistical and planning purposes, but do not require registration in advance as a condition in order to speak because many commenters may not decide whether to comment until the meeting occurs.

During the meeting:

- Have the body's chair, clerk, or chief administrator announce when and how public comment will be taken, including any time limits, whether speakers will be heard in any particular order, asking participants to mute their microphones when not speaking, etc.
- Ask the person making comments to give their name (including spelling) and whether the person represents an organization so everyone knows who is speaking (but it is not required by law).
- Time limits: It is recommended that each speaker be allowed an equal amount of time to speak and that the amount of time provided is reasonable under the circumstances and sufficient to allow meaningful comment. However, because the circumstances and logistics of each meeting may vary as to the number of speakers, total time available for public comment, etc., there is no specific length of time that would be appropriate for all situations.
- Written comments: Depending on the number and length of written comments received, you may want to either read the comments (if they are few and/or brief) or summarize them (if they are many and/or lengthy) as appropriate to the circumstances. Written comments may be incorporated by reference, just make sure to keep copies if you do so.

Technical considerations:

- Waiting rooms: Based on prior experience, the work group recommends against using virtual waiting rooms where commenters must be pulled from one virtual "room" into another in order to speak because of the logistical difficulties and interruption to the flow of the meeting.
- Consider having a separate staff person who is not directly participating in the meeting handle technical duties such as recording the meeting, muting participants with open microphones who are not currently presenting or commenting, allowing and disabling screen sharing, etc.



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- Screen sharing: Only staff and presenters should be allowed to share their screens in order to avoid the risk of someone else displaying inappropriate content.
- Chat functions: It is recommended not to use public written chat features for all-virtual meetings if the virtual meeting software will not capture it for recording and minutes purposes and also for the same reasons that screen sharing should be limited.

II. The Use of Video by Members

A. Statutory Provision:

- Subdivision C 3 of § 2.2-3708.3 requires that "[t]he electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well."

B. Best Practices:

Note that in the course of discussing these recommendations for best practices, the work group concluded that most of them were applicable to all types of electronic participation in public meetings, although the details may vary depending on the type of meeting, the type of electronic participation, and the resources available to the public body. For example, a meeting held under the state of emergency provisions in § 2.2-3708.2 to address an acute weather emergency that requires immediate action may not allow time for many of the suggested actions, especially those that would take place before a meeting. The work group also recognized that staffing and technological resources vary significantly between different public bodies, which can affect each public body's ability to implement these recommendations. For these reasons, keep in mind that except for subdivision C 3 of § 2.2-3708.3 quoted above, these recommendations for best practices are not statutory requirements.

Before the meeting:

- Consider checking with new members to ensure they are familiar with the virtual meeting technology being used by the public body, and if not, help them become familiar with its basic functions (how to log in, turn the microphone and camera on and off, etc.).
- Consider providing members who are not already familiar with participation in virtual meetings any additional tips for being on camera generally (be on time, dress and act appropriately, lighting and glare issues, whether and how to use a virtual background, etc.).
- Consider having members who have not participated electronically in previous meetings log in before the meeting starts to ensure that they do not have any connection problems or other technical issues. Leave enough time so that staff can help if there are any such problems. If there are no such issues, have the members log back out or turn off their cameras and mute their microphones until it is time to start the meeting.
- Before or at the start of a virtual meeting, remind the members that the FOIA provisions that apply to participation in all meetings also still apply to electronic participation in all-virtual meetings. For example, whether a meeting is held in person or all-virtually, members should avoid the use of electronic communications in ways that would create a "meeting within a meeting" that is not visible to the public. This is especially true in all-



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virtual meetings because the members are already communicating electronically and may have other means to do so that are not apparent to the public such as text chat functions that may be limited to certain participants and are not visible to those watching the meeting.

- Similarly to accepting public comments as described above, consider posting presentation materials to the public body's website, if any, and distributing them to the members in advance of the meeting (if the materials are available in advance).
- Consider the needs of persons with disabilities and compliance with the federal Americans with Disabilities Act (42 U.S. Code § 12101 et seq.). For more information, see www.ada.gov.

During the meeting:

- Generally, using an audio-visual connection is preferred over an audio-only connection for all types of electronic participation. This is especially true for all-virtual meetings because there is no central meeting location where the public can be in the same place as the members to observe the meeting.
- When using an audio-visual connection, members should stay on video during the meeting unless there is a specific reason to turn the video off, but remember to mute their microphones when they are not speaking. This is especially true for all-virtual meetings in order to try to provide transparency similar to an in-person meeting for those watching, while simultaneously avoiding audio problems such as feedback, echoes, and inadvertent noises from open microphones.
- Consider taking steps to ensure that the public and other members are aware of which members are speaking or acting at any given time, especially if a member is using an audio-only connection. For example, any members who are not on video should state their names before speaking so there is no confusion regarding who is talking. For members who are on video, if the technology allows it, display members' names along with the video. The same suggestions also apply to any other speakers or presenters who are not members.





Created for the
Virginia Association of Soil and Water Conservation Districts
Annual Meeting
December 5, 2023

I. Council Membership

Council membership as of September 2023:

Speaker of the House Appointees

The Honorable Del. M. Keith Hodges

The Honorable Del. Vivian E. Watts

The Honorable Bruce D. White (Chair)

Senate Committee on Rules Appointees

The Honorable Sen. Adam Ebbin

The Honorable Sen. Thomas K. Norment, Jr.

The Honorable Malfourd W. Trumbo (Vice-Chair)

Gubernatorial Appointees

John C. Blair

Sharon E. Pandak

Tracy Retchin

II. Council Duties

The Council shall perform the following duties:

1. Furnish formal and informal guidance to all persons required to comply with the Acts
2. Conduct training seminars and educational programs and publish educational materials for all persons required to comply with the Acts
3. Serve as liaison between state agencies, boards, commissions, and local government entities for administering the filings of all disclosure forms
4. Redact personal information from any form prior to making the form available to the public
5. Establish and maintain a searchable database of disclosure forms filed with the Council
6. Notify the Secretary of the Commonwealth and the Attorney General concerning late or failure-to-file penalties
7. Receive and review requests for approval of travel submitted by individuals required to file a Statement of Economic Interests

III. Prohibited Conduct and Personal Interests

A. Prohibited Conduct

No state or local government officer or employee shall:

1. Solicit or accept money or other thing of value for services performed within the scope of your official duties except for compensation paid by your agency
2. Offer or accept any money or other thing of value for obtaining employment, appointment, or promotion of any person with any governmental or advisory agency

3. Offer or accept any money or other thing of value for the use of your public position to obtain a contract for any person or business with any governmental or advisory agency
4. Use confidential information that you have acquired by reason of your public position and that is not available to the public for your or another party's economic benefit
5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence you in the performance of your official duties; this does not include political contributions actually used for a political campaign or constituent services and reported as required by campaign finance laws
6. Accept any business or professional opportunity when you know that there is a reasonable likelihood that the opportunity is being given to influence you in the performance of your official duties
7. Accept any honoraria for any appearance, speech, or article in which you provide expertise or opinions related to the performance of your official duties (this only applies to the Governor, Lt. Governor, Attorney General, Governor's Secretaries, and heads of departments of state government)
8. Accept a gift from a person who has interests that may be substantially affected by the performance of your duties under circumstances where the timing and nature of the gift would cause a reasonable person to question your impartiality in the matter affecting the donor
9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of your public office for private gain
10. Use your public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this does not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this does not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause

B. "Personal interest" is a financial benefit or liability accruing to an officer or employee or to a member of his immediate family.

Personal interests exist due to:

1. Ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
2. Annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
3. Salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;

4. Ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property;
5. Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or
6. An option for ownership of a business or real or personal property if the ownership interest will consist of subdivision (1) or (4) above.

C. Personal Interest in a Contract

1. You may not have a personal interest in a contract with your agency other than your own contract of employment.
2. You are also prohibited from having a personal interest in certain contracts with other state agencies.

For contracts with other state agencies, an exception is made for:

- i. contracts awarded using competitive sealed bidding or negotiation following Procurement Act procedures
- ii. contracts awarded after a written finding by the administrative head of the agency that competitive sealed bidding or negotiation is contrary to the best interest of the public.

There are many exceptions to this prohibition. It is recommended that you contact the Council regarding the application of an exception.

D. Personal Interest in a Transaction

A personal interest in a transaction means a personal interest in any matter considered by your agency, when official action is taken or contemplated.

Such a personal interest exists when you or a member of your immediate family has a personal interest in:

1. property or a business, or
2. represents or provides services to any individual or business

and the property, business, or represented or served individual or business

1. is the subject of the transaction or
2. may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action on the transaction.

You must publicly disqualify yourself if the transaction applies solely to the entity in which you have a personal interest, or if you have a personal interest in a transaction and do not qualify for participation.

It is recommended that you contact the Council if you have a question about a possible personal interest in a transaction.

Contact Information:

Virginia Conflict of Interest and Ethics Advisory Council
Pocahontas Building
900 E Main Street
8th Floor
Richmond, VA 23219
Website: ethics.dls.virginia.gov
Email: ethics@dls.virginia.gov

Stewart Petoe
Executive Director
spetoe@dls.virginia.gov
804.698.1845

Rebekah Stefanski
Senior Attorney
rstefanski@dls.virginia.gov
804.698.1846

Elizabeth Sundberg
Filing Coordinator
esundberg@dls.virginia.gov
804.698.1848

Valerie Mizzell
Assistant Filing Coordinator
vmizzell@dls.virginia.gov
804.698.1847

SECTION IV

OTHER REFERENCES AND CONTACTS

VIRGINIA SOIL & WATER CONSERVATION BOARD (VSWCB)

The Virginia Soil and Water Conservation Board (board) was established by the General Assembly to help guide the delivery of soil and water conservation services to citizens of the commonwealth. The board is supported mainly by DCR staff for programs covering soil and water conservation and dam safety.

Composition:

- Nine voting members and one non-voting member (DCR director).
- All voting members are appointed by the governor.
- Three are at-large, of which two must have a demonstrated interest in natural resource conservation with a background or knowledge in dam safety, soil conservation, or water quality protection; four are farmers and two are farmers or Soil and Water Conservation District (SWCD) directors. Each of the six members who is a farmer or district director shall be a representative of one of the six geographic areas represented in the VASWCD.
- Members serve staggered four-year terms and no more than two consecutive full terms.

See § 10.1-502 of the *Code of Virginia* for a full description.

Duties include: Provide oversight and support of SWCD programs, including financial support, coordination, information exchange, the formation of districts, adjustments to their boundaries, as well as other specified duties.

Establish policies governing the distribution of appropriated funds for the delivery of the Virginia Agricultural Best Management Practices Cost-Share Program and for the administrative, operational, and technical assistance support for SWCDs.

Approve appointments of SWCD directors (two per entity and as needed to fill vacancies).

Keep district SWCD directors informed of the activities and experience of all other districts, and facilitate an interchange of advice and experience between the districts.

Provide oversight and enforcement of the commonwealth's dam safety program and regulations.

Approve the distribution of loans and grants from the Dam Safety, Flood Prevention and Protection Assistance Fund to local governments and private entities.

Adopt regulations for the voluntary nutrient management training and certification program and for the voluntary resource management plan program.

Approve the Virginia Agricultural Cost-Share (VACS) BMP manual as Board Guidance.

Provide for the conservation of soil and water resources, control and prevention of soil erosion, flood water and sediment damages thereby preserving the natural resources of the Commonwealth.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Charles Newton, Chair Area I Representative 149 Balkamore Hill Road Stanley, VA 22851	PHONE: 540-244-7642 email: charles.newton@svswcd.org	Appointed: 7/1/2022* Term Expires: 6/30/2026
Adam Wilson, Vice-Chair Area IV Representative 14980 Black Hollow Road Abingdon, VA 24210	PHONE: 276-608-0026 email: awauctioneers@yahoo.com	Appointed: 7/1/2022* Term Expires: 6/30/2026
Kevin Dunn Area V Representative 7398 Bell Road Dillwyn, VA 23936	HOME: 434-547-6563 email: kdunn@piedmontswcd.org	Appointed: 7/1/2025 Term Expires: 6/30/2029
Stephanie Cornnell Area II Representative 8021 Burwell Road Catlett, VA 20119	PHONE: 703-586-3212 email: scornnell81@gmail.com	Appointed: 7/1/2025* Term Expires: 6/30/2029
Nick Thomas Area VI Representative 10089 Atlantic Road Atlantic, VA 23303	PHONE: 757-894-0524 email: njllc@yahoo.com	Appointed: 7/1/2024 Term Expires: 6/30/2028
Jason R. De La Cruz At Large Member 1007 Granite Avenue Richmond, VA 23226	PHONE: 571-344-3952 email: delacruzjr3@gmail.com	Appointed: 7/1/2023 Term Expires: 6/30/2027
Robert Mills At Large Member 1101 Wynell Drive Callands, VA 24530	PHONE: 434-441-0272 email: briarview73@gmail.com	Appointed: 7/1/2023 Term Expires: 6/30/2027
Leigh Pemberton Area III Representative 12048 Old Ridge Road Doswell, VA 23047	PHONE: 804-347-2284 email: lepem@aol.com	Appointed 7/1/2024 Term Expires: 6/30/2028

John Schick
At Large Member
267 Winston Road
Louisa, VA 23093

PHONE: 540-661-2444 Appointed: 7/1/2023
Term Expires: 6/30/2027
email: john@goldminecreekfarm.com

Ex Officio Members

Matthew S. Wells, Director OFFICE: 804-786-6124
Dept. of Conservation & Recreation FAX: 804-786-6141
600 E. Main Street, 24th Floor email: matthew.wells@dcr.virginia.gov
Richmond, Virginia 23219

Dr. Edwin Martinez, Advisory Member
State Conservationist OFFICE: 804-287-1691
USDA, Natural Resources Conservation Service
1606 Santa Rosa Road, Suite 209
Richmond, Virginia 23229 email: edwin.martinez@usda.gov

Virginia Soil and Water Conservation Board
Department of Conservation and Recreation
600 E. Main Street, 24th Floor
Richmond, VA 23219
swcb@dcr.virginia.gov
<http://www.dcr.virginia.gov/swcb>

*denotes second term



COMMONWEALTH OF VIRGINIA

Department of the Treasury

MANJU S. GANERIWALA
TREASURER OF VIRGINIA

DIVISION OF RISK MANAGEMENT
P. O. BOX 1879
RICHMOND, VA 23218-1879
(804) 786-3152

8/2/2021

MEMORANDUM

TO: Laura Ellis
Department of Conservation and Recreation (DCR)

FROM: Brian Parker A handwritten signature in black ink that appears to read "Brian C. Parker".

RE: Risk Management Services in Currently in Place or Available to the
Soil and Water Conservation Districts by the Division of Risk
Management

This details the risk coverage currently in place or available to the Soil and Water Conservation Districts (SWCD) through the Division of Risk Management (DRM).

1. LIABILITY.

The SWCDs are covered for tort liability under the Commonwealth Risk Management Plan for state agencies, officials, employees and agents. This program provides coverage limits of \$2 million per occurrence. Claims are administered by DRM with legal defense provided by the Office of the Attorney General. This program is included in the annual General Liability premium paid by the Department of Conservation and Recreation (DCR). The coverage is automatic and no applications are needed. There is no deductible. Claims should be reported by the individual SWCD to DRM.

2. AUTOMOBILE LIABILITY.

The SWDCs are eligible for the automobile liability and property damage coverage through DRM. The program has a limit of \$1 million. To obtain coverage each SWCD must communicate directly with DRM. They will need to provide underwriting information on the vehicles, to include vehicle description and identification. A premium for the coverage will be billed directly to the SWCD. Claims are administered by the DRM contract claim service provider. There may be a deductible depending on the coverage selected.

3. FIDELITY BOND.

The officials and employees of the SWCDs are covered under the fidelity bond administered by DRM. This bond provides a limit of \$500,000 for all employees. This program is included in the annual Fidelity Bond premium paid by DCR. NOTE: It is our understanding that DCR currently purchases a \$1 million

fidelity bond covering the SWCDs. The DRM bond program will act as excess over the DCR purchased bond. Claims and losses excess of any purchased bond should be reported directly to DRM. There is no deductible.

4. PROPERTY INSURANCE AND WORKERS' COMPENSATION

DRM does not provide this coverage for SWCDs directly. DRM, however, can obtain this coverage for the individual SWCDs through its broker of record. The SWCDs should contact DRM directly. Premiums and deductibles are the responsibility of the individual SWCD. There are no fees for this service.

CERTIFICATE OF LIABILITY COVERAGE

Administered by
Commonwealth of Virginia
Department of the Treasury
Division of Risk Management
PO Box 1879
Richmond, VA 23218-1879

ISSUED TO:

and all interested parties

AUTHORITY: § 2.2-1837, Code of Virginia and the Commonwealth of Virginia Risk Management Plan

COVERAGE PERIOD: Continuous, effective

PURPOSE: Verification of liability coverage for activities of
its employees, and authorized agents as it relates to

COVERAGE: Tort Liability, including Medical Malpractice and Automobile Liability

LIMITS: \$100,000 for tort claims against the Commonwealth and \$2,000,000 for claims, other than medical malpractice claims, against officers, employees, and agents of the Commonwealth. For malpractice claims against health care providers, the limit is the amount set forth in § 8.01-581.15, Code of Virginia.

This document is for information purposes only. It does not alter the Code of Virginia or any provisions of the Commonwealth of Virginia Risk Management Plan.

VERIFIED BY: Signature

State Official's Name:

Title:

Date:

Additional SWCD Resources Online

- **DCR-Division of Soil and Water Conservation Webpage:** From the DSWC landing page, you can navigate to pages about Soil and Water Conservation Programs, Agricultural Incentives Programs, Conservation Planning, Resource Management Planning, District Engineering Services, Nutrient Management, and other resources provided by the Division.
<https://www.dcr.virginia.gov/soil-and-water/>
 - Additionally, from the DCR-DSWC page you can access **Soil and Water Conservation District Resources** including a marketing toolkit. <https://www.dcr.virginia.gov/soil-and-water/swcds>
- **Desktop Procedures for District Fiscal Operations:** <https://www.dcr.virginia.gov/soil-and-water/document/cd-tng-desktop-proceeds.pdf>
- **Soil and Water Conservation District Law:** Title 10.1 Chapter 5 of the Code of Virginia is known as the Soil and Water Conservation District Law. This section of the Code of Virginia includes the composition, duties, powers and authorities of both the Virginia Soil and Water Conservation Board and Virginia's 47 soil and water conservation districts. The Code serves as a guide for SWCD boards in the implementation of local and state initiatives.
<https://law.lis.virginia.gov/vacode/title10.1/chapter5/>
- **Virginia Soil and Water Conservation Board:** The Virginia Soil and Water Conservation Board was established by the General Assembly to help guide the delivery of soil and water conservation services to citizens of the Commonwealth. On this page you can find the most up-to-date calendar of meetings and Board membership. <https://www.dcr.virginia.gov/soil-and-water/vs-and-wcb>
- **Virginia Agricultural Cost-Share BMP Manual:** The VACS Manual includes guidelines and practice standards for the VACS, Tax Credit, Conservation Reserve Enhancement Program (CREP), and Small Herd Initiative programs. The Policy on SWCD Administration and Operations Funding Allocations and the Policy and Procedures on SWCD Cost-Share and Technical Assistance Funding Allocations are included in Section I of the manual.
<https://consapps.dcr.virginia.gov/htdocs/agbmpman/agbmptoc.htm>
- **Virginia Association of Soil and Water Conservation Districts (VASWCD):** From the VASWCD homepage you can access information pertinent to all SWCDs, including VASWCD board and committee meetings, the current legislative agenda, the District Directory, information about the Virginia Conservation Assistance Program (VCAP), educational tools, Envirothon, and a number of other resources. <https://vaswcd.org/>
- **VASWCD Training Resource Library:** Many recorded trainings on topics including financial matters, IT issues, personnel management, and trainings conducted in partnership with DCR can

be found here: <https://vaswcd.org/virtualtraining/> and on YouTube at: <https://www.youtube.com/@vaswcdeducation4220>

- **VASWCD Personnel Management Resource Guide** is available here: <https://vaswcd.org/personnel-management/>
- **VASWCD Leadership Course:** This online training course was designed to teach directors, associates, and staff the basic operations of conservation districts. This course also meets Phase I of the required Director Orientation deliverable as outlined in each SWCD's Administrative and Operational grant agreement with DCR. <https://vaswcd.org/leadership-course/>
- **Virginia Conflict of Interest and Ethics Advisory Council and Conflict of Interest Act Training:** The Virginia Conflict of Interest and Ethics Advisory Council was created by the General Assembly to encourage and facilitate compliance with the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq.) Conflict of Interest training is required every two years for all locally elected officials, including elected SWCD Directors. Information on COIA(including the full COIA Code), the advisory council, and access to the **online COIA training** can be found here: <http://ethics.dls.virginia.gov/>
- **Virginia Freedom of Information Advisory Council and Freedom of Information Act Training:** The Virginia Freedom of Information Advisory Council provides expertise on FOIA. The FOIA Council answers questions from private citizens, state and local public officials, and the media about access to public records and meetings. Many FOIA resources, including the FOIA Code, are available on the website here: <https://foiacouncil.dls.virginia.gov/foiacouncil.htm>
 - Additionally, **Freedom of Information Act training** is required every two years for all locally elected officials, including elected SWCD Directors. Online training options can be found here: <https://foiacouncil.dls.virginia.gov/training.htm>
- **Robert's Rules of Order, Parliamentary Procedure:** Robert's Rules of Order is America's foremost guide to parliamentary procedure. It is used by more professional associations, organizations, and local governments than any other authority. The website provides multiple resources for conducting meetings following parliamentary procedure. <https://robertsrules.com/>