



*VIRGINIA DEPARTMENT
OF AGRICULTURE AND
CONSUMER SERVICES*

**ANNUAL REPORT
ON THE
AGRICULTURAL STEWARDSHIP ACT**

**Bradley Copenhaver
Commissioner**

August 9, 2021

VIRGINIA AGRICULTURAL STEWARDSHIP ACT

ANNUAL REPORT

For Program Year April 1, 2020 - March 31, 2021

BACKGROUND

The 1996 Session of the General Assembly enacted the Agricultural Stewardship Act (ASA) (Va. Code § 3.2-400 *et seq.*), which requires the Commissioner of Agriculture and Consumer Services (Commissioner) to administer and enforce the ASA program. Through an effort of cooperation and coordination involving Virginia's Soil and Water Conservation Districts (SWCD), the Virginia Department of Agriculture and Consumer Services (VDACS), and the agricultural community, the ASA program provides a common-sense solution to water pollution problems caused by agricultural operations.

Subsection B of Va. Code § 3.2-408 requires the Commissioner to compile a report by August 31 of each year listing the number of complaints received, the nature of each complaint, the actions taken in resolution of each complaint, and any penalties that may have been assessed. Additionally, the Commissioner is required to (i) provide this report to the Soil and Water Conservation Board, the Department of Conservation and Recreation, and to every SWCD; (ii) publish notice in the Virginia Register that the report is available; and (iii) make the report available to the public upon request.

The following report on the ASA program is for the program year April 1, 2020, through March 31, 2021.

PROGRAM OBJECTIVES

The ASA Program is designed to:

- Identify water quality problems and to help farmers correct these problems in a common-sense manner that accommodates both the farmer and the environment;
- Establish a system that respects both the farmer and the person voicing concerns about water quality;
- Educate farmers about stewardship and to encourage them to enhance it even in instances in which a water quality problem cannot be proven;
- Support farmers in their efforts to strengthen their stewardship practices, to provide them with the information they need, and to help link them to resources that can provide assistance;
- Educate Virginia citizens about normal farming practices and the impact those practices may or may not have on the environment; and,
- Provide SWCDs with training and the ASA materials they need to the extent that resources will allow.

HOW THE PROGRAM WORKS

Complaints alleging that a specific agricultural activity is causing or will cause water pollution are received by the Commissioner. If a complaint meets the criteria for investigation, the Commissioner (through ASA program staff) contacts the appropriate SWCD about investigating the complaint. If the district declines, ASA program staff conducts the investigation on behalf of the Commissioner. In most cases, a joint investigation involving local district staff and ASA program staff is performed.

The purpose of the investigation is to determine whether the agricultural activity is causing or will cause water pollution. If no causal link is found, the Commissioner determines that the complaint is unfounded. If the Commissioner determines that the activity is the cause of pollution, the farmer is given up to 60 days to develop an agricultural stewardship plan to correct the identified water pollution problems. The local district typically reviews the plan, and the Commissioner will approve the plan when it is determined that it meets the necessary requirements to solve the water pollution problem.

The ASA provides the farmer up to six months from the date of the Commissioner's determination that a complaint is founded to start implementing the agricultural stewardship plan and up to 18 months from that date to complete plan implementation. The timing allows the farmer to take advantage of suitable weather conditions for outside work or required construction. If a farmer fails to submit a plan for approval or implement a plan within the given timeline, the Commissioner takes enforcement action.

AGRICULTURAL ACTIVITIES

The ASA program received numerous inquiries regarding possible agricultural pollution during the program year of April 1, 2020, through March 31, 2021. Sixty-four of these cases became official complaints. The official complaints fell into 16 categories according to the following types of agricultural activity:

- Beef (24)
- Land conversion (9)
- Equine (5)
- Swine (4)
- Dairy (4)
- Cropland (3)
- Christmas Trees, Land Conversion (2)
- Cropland, Land Conversion (2)
- Poultry (2)
- Beef, Equine (1)
- Beef, Poultry, Swine (1)
- Beef, Sheep (1)
- Beef, Equine, Poultry, Sheep (1)
- Christmas Trees (1)
- Poultry, Other (1)
- Other (3)

TYPES OF POLLUTION

The ASA addresses water pollution problems caused by nutrients, sediment, and toxins entering state waters from agricultural activities. The ASA program received complaints based on the following seven pollution categories during the program year of April 1, 2020, through March 31, 2021:

- Sediment (17)
- Nutrients (15)
- Nutrients, Sediment (13)
- Bacteria, Nutrients, Sediment (9)
- Bacteria, Nutrients (8)
- Bacteria, Nutrients, Sediment, Toxins (1)
- Bacteria (1)

COMMISSIONER'S FINDINGS

During the program year, 22 (34 percent) of the 64 official complaints were determined to be founded and required agricultural stewardship plans to address water pollution problems. In each founded case, there was sufficient evidence to support the allegations that the agricultural activities were causing or would cause water pollution.

Sixteen (25 percent) of the complaints received during the program year were determined to be unfounded because there was either insufficient evidence or no evidence of water pollution. In some instances, farmers involved in the unfounded complaints voluntarily incorporated best management practices into their operations to prevent more complaints or to prevent potential problems from becoming founded complaints.

Twenty-six (41 percent) of the complaints received during the program year were dismissed for various reasons. Many of the complaints that were dismissed were situations where a water quality concern existed but was remedied prior to the official investigation. Others were cases in which the ASA program had no jurisdiction in the matter, were withdrawn by the complainant, or were dismissed because insufficient information was provided by the complainant.

In general, farmers involved in the complaint and correction process were cooperative in meeting the deadlines set up by the ASA. However, five separate violations of corrective orders, which included potential civil penalties, were issued for three separate operations. Two of these violations were addressed without assessing civil penalties by working in cooperation with the two operators to address the violations. Three of these violations resulted in civil penalties totaling \$2,750 for one operator. Under the ASA, the Commissioner issues a corrective order when a farm owner or operator fails to submit or complete implementation of the agricultural stewardship plan based on the findings of a conference held to receive the facts on a case. All of the violations during the program year involved corrective orders issued during previous program years, as there were no corrective orders issued during the 2020 - 2021 program year.

ASA CASE DECISION TABLES

The following tables provide the information about the individual ASA cases that were received, investigated, and decided during the 2020 - 2021 program year.

CASE DECISIONS
April 1, 2020 - March 31, 2021
Founded Complaints

Complaint Number	Locality of Complaint	Activities Category	Complaint Type
1133	Grayson County	Land Conversion	Sediment
1134	Grayson County	Christmas Trees, Land Conversion	Sediment
1135	Botetourt County	Swine	Nutrients, Sediment
1137	Hanover County	Equine	Nutrients
1144	Page County	Beef, Poultry, Swine	Bacteria, Nutrients
1147	Brunswick County	Beef	Bacteria, Nutrients, Sediment
1149	Grayson County	Christmas Trees, Land Conversion	Sediment
1150	Carroll County	Land Conversion	Sediment
1153	Shenandoah County	Beef	Bacteria, Nutrients, Sediment
1155	Grayson County	Cropland, Land Conversion	Sediment
1164	Dinwiddie County	Swine	Bacteria, Nutrients, Sediment
1165	Albemarle County	Land Conversion	Sediment
1169	Hanover County	Other	Sediment
1170	Accomack County	Cropland	Sediment
1175	Patrick County	Land Conversion	Sediment
1183	Rockingham County	Beef	Bacteria, Nutrients, Sediment
1185	Lancaster County	Cropland	Sediment
1189	Bedford County	Beef, Equine, Poultry, Sheep	Nutrients, Sediment
1191	Rockingham County	Dairy	Bacteria, Nutrients, Sediment
1192	Augusta County	Beef	Nutrients, Sediment
1193	Augusta County	Beef	Bacteria, Nutrients, Sediment
1195	Rockingham County	Beef	Bacteria, Nutrients, Sediment

CASE DECISIONS
April 1, 2020 - March 31, 2021
Unfounded Complaints

Complaint Number	Locality of Complaint	Activities Category	Complaint Type
1132	Charlotte County	Land Conversion	Sediment
1140	Bedford County	Equine	Nutrients
1142	Franklin County	Equine	Nutrients
1146	Grayson County	Christmas Trees	Sediment
1151	Giles County	Land Conversion	Sediment
1154	Stafford County	Poultry, Other	Bacteria, Nutrients
1157	Floyd County	Swine	Bacteria, Nutrients
1158	Franklin County	Beef	Nutrients, Sediment
1162	Pittsylvania County	Land Conversion	Sediment
1166	Smyth County	Other	Nutrients
1168	Orange County	Equine	Nutrients
1171	Dinwiddie County	Other	Bacteria, Nutrients
1174	Fauquier County	Beef	Nutrients, Sediment
1182	Appomattox County	Land Conversion	Sediment
1194	Tazewell County	Beef	Bacteria, Nutrients, Sediment, Toxins
1196	Washington County	Beef	Nutrients, Sediment

CASE DECISIONS
April 1, 2020 - March 31, 2021
Dismissed Complaints

Complaint Number	Locality of Complaint	Activities Category	Complaint Type
1136	Loudoun County	Beef, Sheep	Bacteria, Nutrients
1138	Albemarle County	Land Conversion	Sediment
1139	Rockingham County	Dairy	Bacteria, Nutrients

1141	Spotsylvania County	Beef	Bacteria, Nutrients
1143	Rockingham County	Dairy	Bacteria, Nutrients
1145	Giles County	Swine	Nutrients
1148	Nottoway County	Beef	Bacteria, Nutrients, Sediment
1152	Carroll County	Cropland, Land Conversion	Sediment
1156	Augusta County	Beef	Nutrients, Sediment
1159	Shenandoah County	Beef	Bacteria, Nutrients, Sediment
1160	Augusta County	Beef	Bacteria
1161	Fauquier County	Cropland	Nutrients, Sediment
1163	Page County	Beef	Nutrients, Sediment
1167	Clarke County	Beef, Equine	Nutrients
1172	Rockingham County	Beef	Nutrients, Sediment
1173	Rockingham County	Beef	Nutrients
1177	Augusta County	Beef	Nutrients
1178	Augusta County	Beef	Nutrients
1179	Augusta County	Beef	Nutrients
1180	Shenandoah County	Beef	Nutrients
1181	Rockingham County	Beef	Nutrients
1184	Highland County	Poultry	Nutrients
1186	Wythe County	Beef	Nutrients, Sediment
1187	Rockingham County	Equine	Nutrients, Sediment
1188	Rockingham County	Dairy	Nutrients
1190	Augusta County	Beef	Nutrients, Sediment

CASE TRENDS

Compared to the previous program year, the ASA program experienced a 33 percent increase in official complaints, from 48 to 64. The number of founded complaints requiring plans increased by 47 percent, from 15 to 22. Unfounded complaints decreased by 11 percent, from 18 to 16, and the number of dismissed complaints increased 76 percent from the previous program year, from 15 to 26.

COMPLAINT TRACKING

With the assistance of the Virginia Department of Conservation and Recreation, the ASA program added the ability to track and report certain best management practices implemented to address water pollution on founded complaint sites. This tracking module will assist ASA staff in the verification process and contribute to the goals outlined in the Chesapeake Bay Phase III Watershed Implementation Plan.

CONTACTS

Questions regarding this report should be directed to the ASA office at 804-786-2658 or to darrell.marshall@vdacs.virginia.gov.