A REPORT TO

THE CHAIRS OF THE HOUSE COMMITTEE ON AGRICULTURE, CHESAPEAKE AND NATURAL RESOURCES, THE SENATE COMMITTEE ON AGRICULTURE, CONSERVATION, AND NATURAL RESOURCES, AND THE VIRGINIA DELEGATION TO THE CHESAPEAKE BAY COMMISSION

REVIEW OF THE PRACTICE OF RETIRING AGRICULTURAL LAND FOR THE GENERATION OF NUTRIENT CREDITS

DECEMBER 2021

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Executive Summary

Item 377 O in 2021 Special Session I Va. Acts Ch. 552 directed the Department of Environmental Quality (DEQ), in consultation with the Department of Agriculture and Consumer Services and the Department of Forestry to convene a workgroup to review the practice of retiring agricultural land for the generation of nutrient credits. The workgroup met on November 1, 2021 and following introductions and an overview of the nonpoint source nutrient banking program was asked to discuss three specific questions:

1. "Does the practice of retiring agricultural land for the generation of nutrient credits have an impact on agricultural sustainability, farmland retention, farmland preservation, or functions of the nutrient exchange in the Virginia portion of the Chesapeake Bay watershed and its sub-watersheds?"

2. "If the establishment of nutrient banks has an impact on farmland retention/availability, what recommendations do you suggest regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland?"

3. "In situations where land is converted to forestland to generate nutrient credits, what protections are in the nutrient credit trading regulation to ensure the forestland is managed under a forestry plan and/or noxious weeds or invasive species are controlled."

This report summarizes the workgroup's process and discussions.

Introduction

Item 377 O in 2021 Special Session I Va. Acts Ch. 552 directed the Department of Environmental Quality (DEQ), in consultation with the Department of Agriculture and Consumer Services and the Department of Forestry, to:

> [E]stablish a workgroup to review the practice of retiring agricultural land for the generation of nutrient credits and determine its impact on agricultural sustainability, farmland retention, farmland preservation, and functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds. If it is determined that there is impact on farmland retention/availability, the report should include recommendations regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland. If the land for nutrient credits is converted to forestland, the workgroup should identify what protections are in the nutrient credit trading regulations to ensure the forestland is managed under a forestry management plan and/or noxious weed or invasive species are controlled. The review shall be completed and provided to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2021. The workgroup shall include representatives of the Virginia Agribusiness Council, Virginia Farm Bureau, the Chesapeake Bay Commission, Virginia Cooperative Extension, the Virginia Department of Transportation, Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, representatives from local Soil and Water Conservation Districts, representatives of local governments, local economic development officials, and other stakeholders deemed appropriate by the Department.[1]

Nonpoint source nutrient credits are nutrient reductions that are certified by DEQ pursuant to the provisions of the Code of Virginia.[2] Nonpoint source nutrient credits are expressed in pounds of phosphorous or nitrogen.[3] Nonpoint source nutrient credits may be generated through a variety of practices, including but not limited to land conversion.[4] Land conversion is the practice of permanently converting land from a use that generates a certain amount of nutrient runoff, such as cropland, to a land use that generates a lower amount of nutrient runoff, such as forestland.[5] The amount of nonpoint source nutrient credits generated by land conversion depends on the pre and post conversion use of the land and is established in regulation and guidance.

The Virginia Stormwater Management Act allows for nonpoint source nutrient credits to be used for compliance purposes with the Commonwealth's post-construction water quality requirements.[6] Currently, the primary driver of demand for nonpoint source nutrient credits is from entities engaged in development or redevelopment that use nonpoint source nutrient credits for compliance with the Virginia Stormwater Management Act's post-construction water quality

[1] 2021 Special Session I Va. Acts Ch. 552.
[2] *See* Va. Code § 62.1-44.19:13.
[3] *See id.*
[4] *See* 9VAC25-900.
[5] *See id.*
[6] Va. Code § 62.1-44.15:35 B.

requirements. The Virginia Stormwater Management Act specifies that nonpoint source nutrient credits used for compliance with the Act's post-construction water quality requirements must be generated in the same or adjacent eight-digit Hydrologic Unit Code (HUC) as where the development or redevelopment activity is taking place.[7] As a result, nonpoint source nutrient bankers frequently propose and seek to establish nonpoint source nutrient banks in HUCs with a large amount of construction activity or in HUCs adjacent to those with a large amount of construction activity.

To date DEQ has approved about 15,100 acres of land conversion to generate nonpoint source nutrient credits. This figure includes approved nutrient banks where hay, pasture, crop, or fallow fields have been converted or have been proposed to be converted to forest. Crop to hay conversions, golf courses, and urban best management practices are not included in this figure. Additionally, not all approved plans have been implemented at this time. In other words, not all of these land conversion practices have actually taken place, so the actual number of acres where land conversion has occurred to generate nonpoint source nutrient credits is less than the approximately 15,100 acres that have been approved. The table below shows a breakdown of approved land conversion acreage by county.

County	**Acres**
Accomack	44.81
Amelia	691.48
Appomattox	553.64
Augusta	444.63
Buckingham	1025.25
Campbell	185.38
Charles City	25.04
Charlotte	326.42
Chesapeake	59.49
Chesterfield	159.83
Clarke	1082.51
Culpeper	256.07
Cumberland	337.00
Dinwiddie	23.32
Essex	35.40
Fauquier	1263.97
Franklin	106.35
Frederick	118.36
Goochland	266.20
Halifax	482.62
Hanover	123.22
Henrico	188.68
Highland	40.36
Isle of Wight	282.47

[7] Va. Code § 62.1-44.15:35 F.

James City	15.80
King and Queen	215.70
King George	116.59
King William	164.07
Loudoun	570.56
Lunenburg	69.95
Middlesex	288.41
Montgomery	114.07
New Kent	206.30
Northumberland	267.05
Nottoway	18.20
Pittsylvania	388.29
Powhatan	78.83
Prince Edward	605.43
Pulaski	75.99
Rockbridge	69.15
Rockingham	286.72
Scott	46.79
Shenandoah	152.38
Smyth	56.56
Southampton	43.31
Suffolk	305.54
Surry	169.68
Virginia Beach	26.80
Washington	78.93
Westmoreland	1064.86
Wise	13.28
Northampton	28.00
Bath	27.72
Nelson	221.40
Giles	163.45
Grayson	18.99
Franklin City	81.20
Sussex	20.98
Brunswick	20.76
Orange	170.87
Richmond	47.55
Gloucester	50.10
Floyd	151.55
Louisa	89.39
Wythe	76.72
Bedford	64.08
Madison	25.78
Prince George	136.92

Caroline	72.92
Grand Total	**15100.12**

Because nonpoint source nutrient credits are being used to offset permanent changes in land use due to development or redevelopment, the activities that generate nonpoint source nutrient credits for such compliance purposes must also be permanent. The Nutrient Trading Program's regulations impose several requirements on nonpoint source nutrient banks that generate nonpoint source nutrient credits through the use of land conversion. For example, the regulations require that woody invasive species must be controlled, mechanically or chemically, if they impact more than five percent of the project's acreage. The existing regulations also require that a qualified professional must develop a land management plan that addresses invasive species control, forest management, and statements that timber harvesting and thinning will adhere to best management practices set forth by the Department of Forestry's Water Quality Guide and any other applicable requirements. Additionally, the existing regulations require 10 years of monitoring of reforestation projects and every property has a Declaration of Restrictions recorded that outlines the land management requirements and timber harvesting guidelines apply to the nutrient bank area even if ownership changes.

Workgroup Membership

Consistent with the direction provided in 2021 Special Session I Va. Acts Ch. 552, the following individuals were asked to participate on the Workgroup to Review the Practice of Retiring Agricultural Land for the Generation of Nutrient Credits:

Jennifer Perkins, Virginia Department of Agriculture and Consumer Services
Terry Lasher, Virginia Department of Forestry
Kyle Shreve, Virginia Agribusiness Council
Martha Moore, Virginia Farm Bureau
Adrienne Kotula, Chesapeake Bay Commission
Lonnie Johnson, Virginia Cooperative Extension
Chris Swanson, Virginia Department of Transportation
Evan Branosky, Home Builders Association of Virginia
Phil Abraham, Virginia Association for Commercial Real Estate
Chris Boies, Clarke County
Justin Mackay-Smith
Shannon Varner, Virginia Environmental Restoration Association
Brian Wagner, Resource Environmental Solutions
Casey Jensen, EcoCap
Samuel Markwith, Tidewater Soil and Water Conservation District
T.J. Mascia, Davey Resource Group

Workgroup Discussion

The workgroup met on November 1, 2021 at DEQ's Central Office in Richmond, Virginia. After member introductions, an overview of the meeting objectives, and a review of current practices

offered by DEQ staff the discussion was opened up for around the table questions and discussion.

After the around the table questions and discussion, members of the workgroup were asked to discuss three specific questions:

1. “Does the practice of retiring agricultural land for the generation of nutrient credits have an impact on agricultural sustainability, farmland retention, farmland preservation, or functions of the nutrient exchange in the Virginia portion of the Chesapeake Bay watershed and its sub-watersheds?”

2. “If the establishment of nutrient banks has an impact on farmland retention/availability, what recommendations do you suggest regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland?”

3. “In situations where land is converted to forestland to generate nutrient credits, what protections are in the nutrient credit trading regulation to ensure the forestland is managed under a forestry plan and/or noxious weeds or invasive species are controlled.”

The workgroup engaged in discussion following each question. A summary of the discussion is provided below. For a complete description of the workgroup’s discussion please see Appendix 1: Workgroup Meeting Minutes. The discussion summarized below and in Appendix 1 reflects the various positions of the workgroup members and provides thoughtful answers to the questions.

In response to the question about whether the practice of retiring agricultural land for the generation of nutrient credits has an impact on agricultural sustainability, farmland retention, farmland preservation, or functions of the nutrient exchange in the Virginia portion of the Chesapeake Bay watershed and its sub-watersheds workgroup members expressed a range of positions. Some workgroup members stated that retirement of a large proportion of agricultural land in a locality adversely affects the locality. These workgroup members suggested that localities be allowed to prohibit nonpoint source nutrient banks from selling credits outside of the locality where those credits are generated, or be authorized to opt out of allowing nonpoint source nutrient banks, or land conversion projects specifically, in the locality. Workgroup members also raised the possibility of considering whether a project results in retiring an entire farm, as opposed to a portion of the farm, or limiting the generation of nonpoint source nutrient credits to “marginal” agricultural land.

Other workgroup members noted that nonpoint source nutrient credits are being used by development and redevelopment projects to satisfy the water quality requirements of the Virginia Stormwater Management Program, and stated that nonpoint source nutrient credits are necessary for economic development. These workgroup members expressed that there are benefits to maintaining or expanding the nonpoint source nutrient credit program.

Additional workgroup members stated that recent changes to the nutrient credit certification program, informed by refined Chesapeake Bay modeling, have reduced the amount of nonpoint source nutrient credits that can be generated from land conversion practices compared to the amount of nonpoint source nutrient credits that would have been generated by the same project previously. These workgroup members indicated that they thought in the future there would be fewer proposed and conversion projects. It was noted that recently there have been fewer land conversion project proposals and more proposals based on the use of stream restoration projects to generate nonpoint source nutrient credits.

Finally, some workgroup members stated that there is a need for more complete data to evaluate agricultural land retention overall.

Workgroup members also shared a range of suggestions in response to the question about recommendations regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland if the establishment of nutrient banks has an impact on farmland retention/availability. Some workgroup members suggested that localities could be allowed to set a threshold for the percentage of agricultural land in the locality that would be eligible for land conversion to generate nonpoint source nutrient credits, after which the locality could be allowed to opt out of allowing further land conversion projects to generate nonpoint source nutrient credits in the locality. Other workgroup members suggested that criteria could be established to identify marginal agricultural land, and that land could be incentivized for land conversion projects to generate nonpoint source nutrient credits.

Additional workgroup members suggested that the service area from which nonpoint source nutrient credits could be acquired for compliance purposes in high-development areas could be expanded, and suggested this could alleviate the pressure to establish nonpoint source nutrient banks in localities immediately adjacent to high-development areas. Other workgroup members suggested offering incentives to prioritize stream restoration over land conversion as a means to generate nonpoint source nutrient credits.

Further suggestions included revising the Code of Virginia to provide that nonpoint source nutrient credits may only be required from an adjacent eight digit hydrologic unit code if there are no credits available in the same eight digit hydrologic unit code. Others noted that would impact existing banks, unless they were grandfathered. Additional workgroup members suggested that nonpoint source nutrient credits could be restricted to use in the locality in which the credits are generated. Other workgroup members suggested requiring developers to acquire more nonpoint source nutrient credits when purchasing credits from an adjacent hydrologic unit code as compared to if credits were purchased from the same hydrologic unit code in which the development or redevelopment project is taking place.

Finally, workgroup members discussed the protections that are in the nutrient credit trading regulation to ensure the forestland is managed under a forestry plan and/or noxious weeds or invasive species are controlled in situations where land is converted to forestland to generate nutrient credits. DEQ staff noted that the existing regulations require:

- Woody invasive species must be controlled, mechanically or chemically, if they impact more than five percent of the project's acreage.
- A qualified professional must develop a land management plan that addresses invasive species control, forest management.
- Statements that timber harvesting and thinning will adhere to best management practices set forth by the Department of Forestry's Water Quality Guide and any other applicable requirements.
- Ten years of monitoring of reforestation projects.
- Every property must have a Declaration of Restrictions recorded that outlines the land management requirements and timber harvesting guidelines that apply to the nutrient bank area even if ownership changes.

Some workgroup members questioned whether the current forest management provisions are working or if they need to be revisited.

A more complete description of the workgroup's discussion is included in Appendix 1: Workgroup Meeting Minutes.

Appendix 1: Workgroup Meeting Minutes

Meeting Minutes
Monday, November 1, 2021

Workgroup to Review the Practice of Retiring Agricultural Land for the Generation of Nutrient Credits

DEQ Central Office, Third Floor Conference Room
1111 East Main Street, Richmond, Virginia

Members Present: Phil Abraham, Chris Boies, Evan Branosky, Casey Jensen, Lonnie Johnson, Adrienne Kotula, Terry Lasher, Justin Mackay-Smith, Samuel Markwith, Martha Moore, Jennifer Perkins, Kyle Shreve, Chris Swanson, Shannon Varner, and Brian Wagner.
Members Absent: T. J. Mascia.
Other Attendees: None.
DEQ Staff Attendees: Jeff Steers, Melanie Davenport, Allan Brockenbrough, Brandon Bull, Tyler Monteith, Sara Felker, Derick Winn, Lindsey Paisley, and Gary Graham.

The meeting convened at 9:05 a.m. The meeting adjourned at 2:11 p.m.
A quorum of the workgroup members was present for this meeting.

1. Introductions [Jeff Steers, DEQ]. Mr. Steers welcomed the workgroup members, had the members and attending staff introduce themselves, reviewed the general building facilities with the members, and reviewed the agenda for the meeting (Attachment 1).

2. Meeting Objectives [Jeff Steers, DEQ]. Mr. Steers presented the members with the mandate for the Workgroup (from 2021 Acts of Assembly, Special Session I, Chapter 552, Item 377, paragraph O, HB1800, Attachment 2) explained it, and characterized the purpose of the workgroup meeting as a "listening session."

3. Current Practice [Jeff Steers and Allan Brockenbrough, DEQ]. Mr. Steers and Mr. Brockenbrough reviewed the nutrient credit certification program with the workgroup and answered questions from the group about how the program works and the status of the program.

4. Around the table questions. [Jeff Steers, DEQ]. Mr. Steers solicited thoughts and additional questions on the program from the workgroup members.

    a. Initial questions and comments about the program raised by workgroup members included:

        i. What is the ratio of Agricultural land (Ag land) lost compared to Ag land created in Virginia?

ii. What is the amount of urban land created in Virginia over the same period?

iii. What is the amount of forest land created in Virginia over the same period?

iv. What factors account for the change?

v. How much Ag land is put into a permanent transaction (by type) and how much Ag land is lost strictly to land conversion for the purpose of generating nutrient credits?

vi. On a macro-level, what areas/counties bear the most disproportionate share of Ag land conversion for the purpose of generating nutrient credits (e.g. Loudoun, Fauquier, and Clarke counties?).

vii. What do other states do concerning generating nutrient credits through land conversion that results in retiring Ag land? Answer: Virginia's program is unique in many respects, but looking at other states' programs (e.g., MD and PA) would be valuable.

viii. How will Virginia make sure that counties have access to these conservation easements?

ix. What type of localities benefit from the availability of nutrient credits that are generated by land conversion that results in retiring Ag land compared to the type of localities where the credits are generated.

b. The workgroup was asked, "Does the practice of retiring agricultural land for the generation of nutrient credits have an impact on agricultural sustainability, farmland retention, farmland preservation, or functions of the nutrient exchange in the Virginia portion of the Chesapeake Bay watershed and its sub-watersheds?" Responses included:

i. This question boils down to a landowner's right to do what the owner wants to with the land, and who has the authority to make that decision for them.

ii. Retirement of a large proportion of Ag land in a locality can adversely affect the locality. Can localities restrict nutrient banks (e.g., by passing local ordinances) from selling credits outside the same locality where they are generated?

iii. The Virginia Stormwater Management Program (VSMP) is driving the need to create and use nutrient credits, not the Chesapeake Bay restoration efforts. Local development is driving demand for nutrient

credits in order the meet local VSMP requirements. Retirement of Ag land and similar programs generate those necessary nutrient credits. The nutrient credit exchange is necessary for economic development and reaching goals for stream restoration.

iv. Refined Chesapeake Bay modelling has, and subsequent updates to the nutrient credit certification program, generally speaking, have decreased the amount of nutrient credits that can be generated from land conversion compared to the amount of nutrient credits that previously could have been generated form the same land conversion.

v. Achievement of goals for the Chesapeake Bay and localities are not mutually exclusive.

vi. Would there be advantages to adapting the program to land owned vs. leased? What about retiring the whole farm or just part of the farm?

vii. There is a need for more complete data in order to evaluate overall Ag land retention. Right now, there is no centralized source for this data. DEQ can request additional information on program applications in the future once the information needs are known.

viii. Some members felt that there are many benefits to maintaining or expanding the program (e.g., generating credits makes development possible where it might not be feasible otherwise, and conversion of marginally productive land or less economically productive land helps supplement income for the owners).

ix. The program has slowed tremendously in recent years. More people are leaning toward generating credits from stream restoration. There could be mechanisms to improve the stream restoration program.

x. Should certain localities be excluded from the program? Can the program be revised to allow localities to opt out (e.g., in such localities it would not be permitted to generate nutrient credits through land conversion practices)?

c. The workgroup was asked, "If the establishment of nutrient banks has an impact of farmland retention/availability, what recommendations do you suggest regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland?" Responses included:

i. Localities could be allowed to set a threshold for the percentage of Ag land eligible for land conversion to generate nutrient credits, after which

the locality could be allowed to opt out of the program (e.g., the practice of generating nutrient credits via land conversion would not be allowed in that locality).

ii. Marginally productive land could be identified through specific criteria and then retirement of that land incentivized for the generation of credits over prime productive land.

iii. The service territory for high-demand development areas could be expanded so that there is less pressure for conversion of large areas in adjacent localities.

iv. Make it possible for developers within a high-demand development area to trade credits within other developers in that area to improve efficient use of the credits and take pressure off areas generating new credits.

v. Create incentives to prioritize stream restoration over land conversion as a means to generate nutrient credits, such as streamlining the restoration process, improved onsite monitoring, and preconstruction approval of credits.

vi. Not all farmland being retired is prime farmland, and "prime" should be defined.

vii. Any legislation produced to change this program needs to equitable (e.g., taking into account the needs of developers for nutrient credits, the needs of farmers, and the needs of localities), meaningful, and sustainable.

viii. This program is only one of many programs causing a reduction of agricultural land. All of those programs should also be evaluated before making major changes to this program.

ix. Revise the Code so that credits may be acquired from the adjacent 8-digit HUC only if none are available in the same 8-digit HUC as the development. This would impact existing banks (unless they are grandfathered).

x. Limit credit purchases to the county in which the development is occurring.

xi. Apply a credit ratio so that developers making purchases from more distant banks have to acquire additional credits.

d. The workgroup was asked, "In situations where land is converted to forestland to generate nutrient credits, what protections are in the nutrient credit trading

regulation to ensure the forestland is managed under a forestry plan and/or noxious weed or invasive species are controlled." Responses included:

i. In Ag land retirement projects, what protections are provided in regulation to ensure that the forest management part of the project controls invasive species and noxious weeds and brush?

ii. Are the current forest management provisions working or do they need to be revisited?

iii. Existing regulations of the Nutrient Trading Program require that woody invasive species be controlled, mechanically or chemically, if they impact more than 5% of the project's acreage.

iv. Existing regulations require that a qualified professional develop a land management plan that addresses invasive species control, forest management, and statements that timber harvesting and thinning will adhere to best management practices set forth by Department of Forestry's Water Quality Guide and any other applicable requirements.

v. Existing regulations require 10 years of monitoring of reforestation projects and every property has a Declaration of Restrictions recorded that outlines the land management requirements and timber harvesting guidelines that apply to the nutrient bank area even if ownership changes.

e. Additional thoughts from the members:

i. Some members suggested that using Local Zoning or local ordinances as a means to restrict where land conversion projects occur to generate nutrient credits is not the way to go.

ii. Some members suggested that since the nutrient credit program is market-driven, any changes to the program through legislation will dramatically affect the program, and unforeseen consequences are possible.

iii. Some members felt that providing incentives was not the answer.

5. Next Steps [Jeff Steers, DEQ].

a. DEQ will write a report to submit to the General Assembly summarizing the discussions made by the workgroup.

b. DEQ will distribute copies of the DRAFT meeting minutes and (later) a link to DEQ's final report to the members.

c. No future meetings are scheduled.

Attachments:

1. Agenda.
2. Legislative mandate handout.

Attachment 1

Agenda

Virginia Department of Environmental Quality
Workgroup to Review the Practice of Retiring Agricultural Land for the Generation of Nutrient Credits
Meeting Agenda
Monday, November 1, 2021
Start Time: 9:00 A.M

Location: Bank of America Building, 1111 East Main Street, Richmond, Virginia
3rd Floor Conference Room

1. Introductions:

    - Include brief description of your background and why this issue is important to you

2. Meeting Objectives:

    - Item 377.O of the Commonwealth's budget from the 2021 Special Session requires DEQ to conduct a study on the conversion of farmland to nutrient banks.

3. Current practice of conversion of agricultural land for nutrient credit banking:

4. Around the Table Questions:

    a. *Does the practice of retiring agricultural land for the generation of nutrient credits have an impact on agricultural sustainability, farmland retention, farmland preservation, or functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds? If yes, describe the impact.*

    b. *If the establishment of nutrient banks has an impact on farmland retention/availability, what recommendations do you suggest regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland?*

    c. *In situations where land is converted to forestland to generate nutrient credits, what protections are in the nutrient credit trading regulations to ensure the forestland is managed under a forestry management plan and/or noxious weed or invasive species are controlled.*

5. Next Steps:

NOTE: All attendees will be expected to wear face coverings

NOTE: Agency Contact: Lindsey – Lindsey.paisley@deq.virginia.gov

Attachment 2

Review the Practice of Retiring Agricultural Land for the Generation of Nutrient Credits

"O. The Department of Environmental Quality, in consultation with the Department of Agriculture and Consumer Services and the Department of Forestry, shall establish a workgroup to review the practice of retiring agricultural land for the generation of nutrient credits and determine its impact on agricultural sustainability, farmland retention, farmland preservation, and functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds. If it is determined that there is impact on farmland retention/availability, the report should include recommendations regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland. If the land for nutrient credits is converted to forestland, the workgroup should identify what protections are in the nutrient credit trading regulations to ensure the forestland is managed under a forestry management plan and/or noxious weed or invasive species are controlled. The review shall be completed and provided to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2021. The workgroup shall include representatives of the Virginia Agribusiness Council, Virginia Farm Bureau, the Chesapeake Bay Commission, Virginia Cooperative Extension, the Virginia Department of Transportation, Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, representatives from local Soil and Water Conservation Districts, representatives of local governments, local economic development officials, and other stakeholders deemed appropriate by the Department."

Explanation: (This amendment directs the creation of a multi-agency workgroup to review the practice of retiring agricultural land for the generation of nutrient credits and determine its impact on agricultural sustainability, farmland retention, farmland preservation, and functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds.)