

Massachusetts Cranberry Bog Tax Credit

Rules and Instructions

**This program provides tax credits for qualified cranberry bog renovations
that promote more efficient bogs both in design and production**

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1. INTRODUCTION

The Cranberry Bog Tax Credit program is being implemented through the authority of M.G.L. c. 62, § 6(w) and M.G.L. c.63, § 38II. These refundable tax credits will be provided for projects to renovate an existing or abandoned cranberry bog, with the goal of providing higher yields and more efficient methods of cranberry production for participating growers. A grower shall be allowed a credit against the taxes imposed on them by the Commonwealth of Massachusetts, equal to 25 per cent of the total Qualified Renovation Expenditures incurred in connection with a Qualified Renovation of a Cranberry Bog, up to a maximum credit of \$100,000.

2. ELIGIBLE PROJECTS

Project examples include but are not limited to the examples below. Projects that still meet cranberry bog renovation goals but are not listed below will be considered in the review process.

Example Projects	
<ul style="list-style-type: none">• Cranberry Vines• Sand and Leveling• Water Management Structures	<ul style="list-style-type: none">• Excavation Equipment Services• Infrastructure Costs• Other Equipment
Maximum potential tax credit per applicant per year is \$100,000, for \$400,000 per year in expenses for the above type practices	

3. DEADLINES & PROGRAM CALENDAR

Promulgation date/ Program Opens	June 10, 2022
2020 and 2021 Applications Due Date	August 10, 2022, by 5:00 PM
2022 Application Due Date	January 31, 2023, by 5:00 PM

4. APPLICANTS

4A. Eligible Applicants

Agricultural operations as defined by M.G.L. c. 128, Sec.1A that are principally and substantially engaged in the business of cranberry production for commercial purposes, and which can meet the following:

- Applicant must own the property upon which the Qualified Renovations will be implemented or have a leasehold interest in such property, as indicated by a lease agreement or other legal authorization to engage in commercial cranberry production and to implement the Qualified Renovations on such property for not less than three years beyond the calendar year for which a tax credit is sought.

- Are legally recognized entities within the Commonwealth and have the ability to enter a legally binding agreement with the Commonwealth;
- Have demonstrated the capacity to implement and administer projects and programs as defined in this application package;
- Grower and acreage must be defined based on individual USDA/FSA farm and track number.
- Applicants must provide proof of a Natural Resources Conservation Service (NRCS) Farm Conservation Plan, or equivalent, that has been completed or updated within the last five years.
- Awards are limited to one per CTCY per applicant/agricultural operation using a unique tax identification number.

4B. Ineligible Proposals

- Proposals from applicants whose operation is out of compliance with any federal, state, or local laws or regulations.
- Proposals from applicants who are not engaged in commercial cranberry production.
- Proposals for projects that do not meet requirements specified under Eligible Applicants, Section 4A.
- Proposals for cost related to acquiring or purchasing property or for the construction of facilities or structures.
- Requests for audits, feasibility studies, and vehicles are not eligible for consideration under this program.
- Labor performed by the agricultural operation in completing the proposed project is not an eligible reimbursement expense.
- Non-labor costs (e.g., management) and fees associated with project oversight and administration costs are not eligible for reimbursement.
- Starting with the calendar 2023 application cycle, proposals for projects that have already started work or have been completed for which the applicant seeks reimbursement.

4C. Leased Property or Multiple Owners

- If the proposed project is on a property not owned by the applicant, an agreement must demonstrate a long-term, legal right to use the property by the applicant. For projects on property owned or operated by more than one person or on leased property, an agreement or affidavit, signed by each co-owner, co-operator, landlord, and lessee, indicating that each such person/entity other than the Applicant:
 - a. Is aware of the Application and the proposed Qualified Renovation;
 - b. Consents to the Applicant conducting the proposed Qualified Renovation on the property; and
 - c. Will not claim a tax credit for Qualified Renovation Expenditures arising from the proposed Qualified Renovation in any other Application

4D. Permits

Certification by the Applicant that the Applicant has received all required permits, licenses, and any other federal, state, or local approvals necessary for the project, or that the proposed project will not occur until such permits, licenses, and approvals are received.

4E. Locator Maps

Proposals must include a map or aerial photo with the property boundaries drawn and the exact location of the project described in the application. Maps are available on-line, or if you already have an up-to-date NRCS Farm Conservation Plan, you may submit copies of maps and aerial photos from that plan.

4F. Applicants with an Agricultural Preservation Restriction (APR) or other restriction

In the event an Applicant has an APR, applicants must obtain, or be in the advanced stages of receiving all approvals required under their APR. Also, indication of whether the proposed Qualified Renovation will occur on property subject to any other restriction as defined in M.G.L. c. 184, § 31, and if so, certification by the Applicant that the Applicant has obtained all required approvals for the Qualified Renovation required pursuant to that restriction, or that the proposed Qualified Renovation will not occur unless and until the Applicant obtains all such approvals

5. QUALIFIED RENOVATION EXPENDITURES

Qualified Renovation Expenditure means an expenditure or cost directly incurred in connection with a Qualified Renovation of a Cranberry Bog; provided, however, that Qualified Renovation Expenditure shall not include costs incurred in acquiring or purchasing property for the construction of facilities or structures for the cultivation, harvesting or production of cranberries. An expenditure or cost is directly incurred in connection with a Qualified Renovation if it is:

- incurred by the Applicant and not subsequently reimbursed to the Applicant;
- incurred in connection with the Qualified Renovation of a Cranberry Bog located in the Commonwealth of Massachusetts;
- incurred in compliance with applicable laws, regulations, permits, licenses, or other legal requirements or authorizations;
- incurred specifically for a Qualified Renovation and is not a general business expense such as a vehicle purchase;
- incurred as a result of an arms-length commercial transaction memorialized by a written receipt or invoice, and not by the provision of labor or other in-kind goods or services performed or provided by the Applicant or any Related Entity; and
- for expenditures incurred starting in CTCY 2023, incurred after the Secretary's notification of eligibility for an Application.

6. APPLICATION & REVIEW PROCESS

6A. For Calendar Tax Credit Years 2020, 2021 and 2022

1. Deadline for application(s).

- a. Taxpayers seeking to claim a tax credit for Qualified Renovation Expenditures for CTCY 2020 or 2021 shall submit an application to the Secretary within 60 days of the effective date of these regulations. This deadline will be August 10, 2022.
 - i. **Due date for Calendar Year 2020 CTCY Applications** – August 10, 2022, 5:00pm
 - ii. **Due date for Calendar Year 2021 CTCY Applications** – August 10, 2022, 5:00pm
 - b. Taxpayers seeking to claim a tax credit for Qualified Renovation Expenditures for CTCY 2022 shall submit an Application to the Secretary, in the form prescribed by the Secretary, by January 31, 2023. A specific expenditure shall not qualify for a tax credit for CTCY 2022 if an Applicant: (i) has included such expenditure in an Application for a Cranberry Bog Renovation Tax Credit for CTCY 2023 as provided in 301 CMR 16.05(1); and (ii) received a final determination of tax credit availability for such Application.
 - i. **Due date for Calendar Year 2022 CTCY Applications** – January 31, 2023, 5:00pm
 - c. An Applicant must submit a separate Application for each calendar tax credit year.
2. Eligible dates. An applicant may receive a Cranberry Bog Renovation Tax Credit for CTCY 2020, 2021 and 2022 only for those Qualified Renovation Expenditures incurred by the Applicant during each respective calendar year. (Note that these CTCYs are defined for previous years, or for the remainder of 2022. CTCY
 - a. CTCY 2020 – January 1, 2020, to December 31, 2020
 - b. CTCY 2021 – January 1, 2021, to December 31, 2021
 - c. CTCY 2022 – January 1, 2022, to December 31, 2022
 3. Form of Application. A complete Application shall include all information required by 301 CMR 16.04, unless otherwise provided by the Secretary. In addition, such application shall include sufficient documentation to enable the Secretary to determine that each expenditure is a Qualified Renovation Expenditure and that it was incurred during the relevant CTCY for fulfillment of the Project Plan.
 4. Notification of Eligibility. The Secretary shall determine whether such Application includes all required information and shall notify the Applicant in writing, by email, of any required information that must be submitted for the Application to be complete. An Applicant may provide supplementary material to complete an application within 15 business days of transmission of such notification. Failure by an Applicant to submit information required to complete an Application within the time limit provided herein, or failure to provide all information required to complete an application, shall constitute withdrawal of that Application.

The Secretary shall review a complete Application to determine whether: (i) the Applicant is an eligible applicant pursuant to 301 CMR 16.03; and (ii) each submitted expenditure is a Qualified Renovation Expenditure. The Secretary shall complete this review and provide a notification of eligibility to the Applicant, in writing, which shall include:

- a. whether the Applicant is eligible, and if not eligible, the reason therefor;
- b. the submitted expenditures that are Qualified Renovation Expenditures and, if any submitted expenditures are not Qualified Renovation Expenditures, the reason therefor;

- c. the total amount of the Applicant's Qualified Renovation Expenditures; and
 - d. the Applicant's opportunity to provide supplemental information for reconsideration.
- 5. Reconsideration. If the Secretary determines that an Applicant is ineligible or that any submitted expenditure is not a Qualified Renovation Expenditure, an Applicant may provide supplemental information to the Secretary within 15 days of transmission of the Secretary's notification of eligibility. Such supplemental information shall be provided in writing and shall include documentation and reasoning to demonstrate why the Applicant is eligible or expenditures are Qualified Renovation Expenditures. The Secretary shall reconsider the Application and issue a final notification of eligibility.
- 6. Authorization.
 - a. Based on its final notification of eligibility for each Applicant, for each CTCY the Secretary shall determine the maximum tax credit for which each Applicant is eligible by multiplying each Applicant's Qualified Renovation Expenditures by 25%. The Secretary shall then calculate the sum of all tax credits for which Applicants are eligible for each CTCY.
 - b. If the sum of all tax credits for which Applicants are eligible for a given CTCY is equal to or less than the Annual Program Cap, the Secretary shall authorize the full amount of the tax credit for which each Applicant is eligible.
 - c. If the sum of all tax credits for which Applicants are eligible for a given CTCY is greater than the Annual Program Cap, the Secretary will authorize a tax credit for a weighted share of the tax credit for which each Applicant is eligible.
 - d. The Secretary shall authorize tax credits in the amounts calculated by notifying the Applicant and the Commissioner of the amount of the tax credit that the Secretary authorizes for each Applicant. The Secretary shall include in such notification: (i) a unique Cranberry Bog Renovation Tax Credit Certificate Number for use in tax filing; (ii) the CTCY to which that certificate number applies; and (iii) such other information as may be necessary for the Applicant to claim the tax credit.

6B. For Calendar Tax Credit Years 2023 forward

- 1. Application Period. The Secretary will announce the date each year when the Secretary will begin to accept applications for Cranberry Bog Renovation Tax Credits for the following CTCY and the deadline by which applications must be received to be eligible for the lottery selection process set forth in 301 CMR 16.05(3). The Secretary will accept Applications received after the deadline but these Applications are ineligible for the lottery selection process described in 301 CMR 16.05(3).
- 2. Project Period. Applications shall include estimated Qualified Renovation expenditures proposed to be made during a Project Period that begins no earlier than October 1 of the year prior to the CTCY applied for and ends no later than December 31 of the CTCY being applied for. The Secretary shall authorize a tax credit only for Qualified Renovation Expenditures incurred during such Project Period, and any such expenditures incurred during such Project Period shall be treated as made during the CTCY for which the Application was made.

3. Lottery Selection. The Secretary will conduct a lottery selection process to establish the priority order for authorization of Cranberry Bog Renovation Tax Credits for the following CTCY.
 - a. The Secretary shall announce the lottery date and procedure each year, which shall randomly select Applications to establish the order in which the Secretary will certify Cranberry Bog Renovation Tax Credits.
 - b. The order of the lottery selection list shall be determined independently for each CTCY based on the applications received for that CTCY, and the order of the list shall not carry over to future years.
 - c. The lottery procedure shall require the Secretary to designate each Application as either a Level 1 or a Level 2 Application for purposes of the lottery selection. For CTCY 2023, all applications shall be designated as Level 1 Applications. For each subsequent CTCY, Level 1 Applications shall be those Applications submitted by Applicants for whom the Secretary did not authorize a Cranberry Bog Renovation Tax Credit of more than \$35,000 for the year immediately prior to the CTCY applied for, and Level 2 Applications shall be all other Applications.
 - d. The Secretary shall first conduct a lottery for all Level 1 Applications and add such Applications to the lottery selection list in the order selected. Upon completion of the lottery for all Level 1 Applications, the Secretary shall then conduct a lottery of all Level 2 applications and add such Applications to the lottery selection list in the order selected.
 - e. The Secretary shall add Applications received after the deadline for lottery eligibility to the end of the lottery selection list in the order received.
4. Notification of Eligibility. The Secretary shall determine whether an Application includes all information required by 301 CMR 16.04 and shall notify the Applicant in writing of any required information that must be submitted for the Application to be complete. An Applicant may provide supplementary material to complete an application within 15 business days of transmission of such notification, or within such additional time as the Secretary may provide. Failure by an Applicant to submit information required to complete an Application within the time limit provided, or failure to provide all information required to complete an application, shall constitute withdrawal of that Application.

The Secretary shall review a complete Application to determine whether: (i) the Applicant is an eligible applicant pursuant to 301 CMR 16.03; and (ii) each proposed expenditure is a Qualified Renovation Expenditure. The Secretary shall provide a notification of eligibility to the Applicant, in writing, which shall include:

- a. whether the Applicant is eligible, and if not eligible, the reason therefor;
 - b. the proposed expenditures that are Qualified Renovation Expenditures and, if any proposed expenditures are not Qualified Renovation Expenditures, the reason therefor;
 - c. the total amount of the Applicant's proposed Qualified Renovation Expenditures;
 - d. the Applicant's place on the lottery selection list; and
 - e. the Applicant's opportunity to provide supplemental information for reconsideration.
5. Reconsideration. If the Secretary determines that an Applicant is ineligible or that any proposed expenditures are not Qualified Renovation Expenditures, an Applicant may provide supplemental information to the Secretary, within 15 days of transmission of the Secretary's notification of eligibility, or within such additional time as the Secretary may provide. Said supplemental information shall be in writing and shall include documentation and reasoning to demonstrate why the Applicant is eligible or why the proposed expenditures are Qualified Renovation Expenditures. The Secretary shall reconsider the Application and issue a final notification of eligibility.

6. Determination of tax credit availability.

- a. The Secretary shall remove from the lottery selection list any Application that is withdrawn or for which a final decision has been reached determining that the Applicant is not an eligible applicant or has proposed no Qualified Renovation Expenditures.
- b. The Secretary shall determine, in the order of the lottery selection list and based on final determinations of Qualified Renovation Expenditures pursuant to 301 CMR 16.05(4) and (5), whether funding is available as a tax credit for each applicant.
- c. The Secretary shall provide a determination of tax credit availability to an Applicant, in writing, when funding will be available as a tax credit for the Applicant's Qualified Renovation Expenditures for a given CTCY. This determination shall indicate the amount of the tax credit that the Secretary will authorize for the Applicant and procedures for authorization.
- d. The Secretary shall notify an Applicant, in writing, when he or she finds that funding may not be available as a tax credit for an Application.

7. Authorization.

- a. An Applicant that has received a determination of tax credit availability may submit its Qualified Renovation Expenditures to the Secretary for authorization of the associated tax credit on or before the date specified by the Secretary. An Applicant shall submit sufficient documentation of all expenditures to enable the Secretary to determine that each expenditure is a Qualified Renovation Expenditure and within the scope of the determination of tax credit availability and the Application reviewed by the Secretary for that CTCY. Such documentation shall include but is not necessarily limited to: invoices; proof that materials and services were provided during the Project Period; proof of payments; and demonstration of how expenditures relate to the Application.
- b. The Secretary shall review such submissions and calculate the tax credit for each Applicant, which shall not exceed \$100,000 or the amount specified in the determination of tax credit eligibility except as provided in 301 CMR 16.05(7)(c).
- c. If the sum of all tax credits calculated for a CTCY pursuant to 301 CMR 16.05(7)(2) is less than the Annual Program Cap, the Secretary may authorize tax credits for Qualified Renovation Expenditures actually incurred that exceed the Qualified Renovation Expenditures estimated in an Application or may authorize tax credits for Applicants who did not receive a Determination of Tax Credit Availability; provided, however, that the Secretary shall not authorize a tax credit greater than \$100,000 for any Applicant in a CTCY. The Secretary shall allocate tax credits to Applicants under 301 CMR 16.07(c) based on lottery position and such other factors as the Secretary may determine.
- d. The Secretary shall authorize tax credits in the amounts calculated by notifying the Applicant and the Commissioner of the amount of the tax credit that it authorizes for each Applicant. The Secretary shall include in such notification: (i) a unique Cranberry Bog Renovation Tax Credit Certificate Number for use in tax filing; (ii) the CTCY to which that certificate number applies; and (iii) such other information as may be required for the Applicant to claim the tax credit.

7. QUALIFIED RENOVATION EXPENSES, STANDARDS AND PERMITS

7A. Installation Standards & Permits

- Qualified Renovation project activity will be evaluated prior to issuance of a tax credit certificate. Work will be evaluated for satisfactory completion and compliance to standards. Spot inspections may be conducted at EEA's discretion on all work. Only work that satisfies the terms and conditions of the program requirements, and any other instructions by EEA shall be deemed eligible as a Qualified Renovation Expense.
- Cranberry Bog Tax Credit program projects must use USDA-NRCS Standards & Specifications as installation standards.
- Applications which are favorably reviewed and receive a Notification of Eligibility must apply for and receive all required permits, licenses, and any other federal, state, or local approvals necessary for the project.

7B. Documentation of Qualified Renovation expenses

- Issuance of a tax credit certificate will require that acceptable documentation be submitted to EEA for evaluation.
- Only expenses incurred **during** the period of the CTCY are eligible as Qualified Renovations expenses. Any incurred project costs that occur prior to or after this period are NOT eligible for tax credits.
- Satisfactory documentation in the form of cancelled checks, receipts, invoices, etc. for costs associated with approved Qualified Renovations must be submitted to EEA and approved.

8. INSTRUCTIONS FOR APPLICATION SUBMISSIONS

8A. Application Submission Instructions

A application form is available at the EEA website and must be completed in its entirety. Once completed, the application form must be either emailed to Thomas.anderson@mass.gov or a hard copy may be mailed or hand-delivered to the Massachusetts Executive Office of Energy & Environmental Affairs. Applications that are sent by fax will NOT be accepted for consideration.

- 2020 and 2021 CTCY Applications must be received by email or at the Boston office by August 10, 2022 by 5:00 PM
- 2022 CTCY Applications must be received by email or at the Boston office by January 31, 2023 by 5:00 PM (more information on 2022 applications will be posted later on in June of 2022 at the website.
- Applications may be sent via either:
 - Email to: thomas.anderson@mass.gov or Denise.pires@mass.gov
 - Hard Copy sent by Mail or Hand Delivered to:

Cranberry Bog Tax Credit Program – DCS
Attn. Tom Anderson/Denise Pires
Executive Office of Energy & Environmental Affairs
100 Cambridge St., Suite 900
Boston, MA 02114

8B. Additional Required Documentation

If selected to receive a Cranberry Bog Tax Credit the Applicant may be required to submit additional forms:

9. MISCELLANEOUS

Program Type	Refundable Tax Credit, M.G.L. c. 62, § 6(w) and M.G.L. c.63, § 38II
Distribution Method	<p>This Application Information package, applications and other information is being distributed through the EEA website at https://www.mass.gov/info-details/cranberry-bog-renovation-tax-credit-program</p> <p>We have also provided copies of the documents to the Cape Cod Cranberry Growers Association and other interested parties as requested.</p> <p>Applicants may not alter language of any application files. Those submitting a proposal must respond in accordance to the instructions and complete only those sections that prompt an Applicant for a response. Modifications to the body of these applications, specifications, terms and conditions, are prohibited. Any unauthorized alterations will disqualify response.</p>
Other	Application Form available at: https://www.mass.gov/info-details/cranberry-bog-renovation-tax-credit-program