# Certification of Nonpoint Source Nutrient Credits

# Complete Application and Credit Release Checklist

# Stream and Other Restoration Activities Application for Perpetual Credit Generation

**Disclaimer:** Checklists are provided as a tool when applying for plan approval and certification of nonpoint source nutrient and sediment credits. DEQ decisions will be made by applying the State Water Control Law, Certification of Nonpoint Source Nutrient Credits regulations ([9VAC25-900](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/)) and project-specific facts. **Refer to sections of 9VAC25-900 noted herein for details of required information for complete applications.**

DEQ’s Ombudsman can provide assistance or redirection. For questions about this checklist, please contact timothy.wilke@deq.virginia.gov or 804-912-0989.

Application status may be viewed on the DEQ Permit Enhancement and Evaluation Platform ([PEEP](https://portal.deq.virginia.gov/peep-search)).

Information Required for a complete application is in accordance with the following regulations, unless otherwise noted on item in this checklist. The Certification of Nonpoint Source Nutrient Credits Regulations are [9VAC25-900](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/); procedure for application for certification of nutrient credits [9VAC25-900-80](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section80/) and determination of application fee amount [9VAC25-900-200](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section200/). [9VAC25-900-150](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section150/) contains recordkeeping and reporting requirements. [Documents incorporated by reference](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section9999/) should be reviewed for information on baseline best management practice (BMP) specifications and the DCR invasive species list. [9VAC25-900-91](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section91/), [GM21-2007](https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\440\GDoc_DEQ_7159_v1.pdf), [9VAC25-870-69](https://law.lis.virginia.gov/admincode/title9/agency25/chapter870/section69/), [§ 62.1-44.19:20](https://law.lis.virginia.gov/vacode/title62.1/chapter3.1/section62.1-44.19%3A20/), and [§ 62.1-44.19:21](https://law.lis.virginia.gov/vacode/title62.1/chapter3.1/section62.1-44.19%3A21/) should be used as references for requirements on the exchange of credits.

Items identified as “Optional” will assist DEQ in expediting your request. Item numbers below do not correspond to regulation numbering.

| **For a Complete Application, Provide at Minimum:** | **Included****(Y, N, or N/A)** | **Page Number(s)****Or Location(s)** |
| --- | --- | --- |
| **Part A: Procedure for Application for Certification of Nutrient Credits****9VAC25-900-80** |  |  |
| **1:** A brief narrative description of the nutrient credit-generating project. |  |  |
| **2:** Contact information for the applicant including name, address, telephone number, and email address. |  |  |
| **3:** Contact information for the nutrient credit-generating project, including the project's mailing address, street address, telephone number, and the contact person's name and email address. |  |  |
| **4:** Status of the applicant as owner, co-owner, operator, or lessee of the nutrient credit-generating project or the site on which the project is located. The applicant shall provide documentation of the applicant's right to exercise control of the nutrient credit-generating project and the site on which it is located for the purposes of generating and maintaining the proposed nutrient credit-generating project via a title, deed, grant, lease, or easement agreement as outlined in [9VAC25-900-80.A.4.](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section80/)  |  |  |
| **5:** The name, mailing address, telephone number, and responsibilities of all known contractors responsible for any operational or maintenance aspects of the nutrient credit-generating project. |  |  |
| **6:** A description of the baseline practices in place within the management area and the nutrient credit-generating project's practices that may result in generation of nutrient credits beyond baseline requirements. Baseline practice requirements are outlined in [9VAC25-900-100.B](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section100/). |  |  |
| **7:** A topographic map, survey, or another type of map deemed acceptable by the department that delineates the property boundary of the management area and clearly shows the location of all practices, including nutrient credit-generating projects and any baseline practices. |  |  |
| **8:** A description of current site conditions with photographs. |  |  |
| **9:** The 8-digit, 10-digit, and 12-digit HUC in which the nutrient credit-generating project is located. |  |  |
| **10:** The appropriate fee required pursuant to Part V ([9VAC25-900-190](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section190/) et seq.)  |  |  |
| **11:** A draft of the proposed site protection instrument for the site on which the project is located. If the landowner is not an individual, documentation will be required establishing that the person executing the protection instrument has the authority to do so. |  |  |
| **12:** A description of other permits and approvals that may be necessary to operate the nutrient credit-generating project. |  |  |
| **13:** A description of any state or federal water quality grants received for water quality actions in the management area.***Note:*** *Agricultural cost share funding may be utilized for the establishment of baseline practices, but state and federal water quality grants may not be utilized to fund credit generating practices. The* [*Virginia Agricultural Cost Share (VACS) Manual*](https://consapps.dcr.virginia.gov/htdocs/agbmpman/agbmptoc.htm) *provides guidelines on applying for cost share funding.* |  |  |
| **14:** Demonstration by the applicant that the site on which the nutrient credit-generating project is located is held with title free from all defects, liens, and encumbrances that would interfere with or be in conflict with the establishment and operation of the nutrient credit-generating project. The demonstration may include documentation of the subordination of property interests (e.g., mineral rights, mortgages, easement) if DEQ determines that the property interest would interfere with or conflict with the establishment and operation of the nutrient credit-generating project. |  |  |
| **15:** A tax map showing the management area and adjacent parcels. |  |  |
| **16:** Any other information deemed necessary by DEQ. |  |  |
| **Part B: Establishing Baseline****9VAC25-900-100** |  |  |
| **1:** Baseline for stream restoration shall be established using the pre-restoration condition of the stream.  |  |  |
| **Part C: Credit Calculation Procedures****9VAC25-900-110** |  |  |
| **1:** **Credit Calculations:** The number of potential nutrient and sediment credits shall be determined by applying Chesapeake Bay Program [Expert Panel Publications](https://www.chesapeakebay.net/who/publications-archive/bmp-expert-panels) protocols or guidance on a case-by-case basis using the best available scientific and technical information, as approved by DEQ.**Optional:** A third party may be utilized for data collection requirements such as bulk density and nutrient concentration soil sampling and lab analysis. |  |  |
| **Part D: Implementation Plan Requirements****9VAC25-900-120** |  |  |
| **1:** An operation and maintenance plan that provides a description and schedule of operation and maintenance requirements and detailed written specifications and process diagrams for the practices used for nutrient credit generation. |  |  |
| **Part E: Approved Wetland and Stream Mitigation Projects****9VAC25-900-120** |  |  |
| **1:** For nutrient credit-generating projects utilizing approved wetland and stream mitigation projects pursuant to § [62.1-44.15:23](https://law.lis.virginia.gov/vacode/62.1-44.15%3A23/) of the Code of Virginia, the implementation plan shall also include a copy of the approved mitigation banking instrument, if applicable. |  |  |
| **2:** A plan view map clearly delineating and labeling areas to be considered for credit conversion. |  |  |
| **3:** A spreadsheet or table listing each labeled area. For each labeled area, the table shall include: |  |  |
| **3.a:** The type of eligible land use conversion or restoration practice; |  |  |
| **3.b:** The acreage or linear feet of the area; |  |  |
| **3.c:** The available mitigation credits; |  |  |
| **3.d:** The potential nutrient credits; and |  |  |
| **3.e:** The ratio of mitigation credits to nutrient credits. |  |  |
| **4:** Documentation that complies with the department-approved procedure to ensure credits are not used for both wetland or stream credit and nutrient credit purposes. |  |  |
| **5:** Documentation shall include written approval from the Interagency Review Team, which oversees stream and wetland mitigation projects pursuant to 33 CFR 332.8 and [§ 62.1-44.15:23](https://law.lis.virginia.gov/vacode/62.1-44.15%3A23/) of the Code of Virginia, to establish a nutrient credit generating site within an approved mitigation bank. |  |  |
| **Part F: New Restoration Projects not Considered for Stream Mitigation** **9VAC25-900-120** |  |  |
| **1:** For new restoration projects not subject to 33 CFR 332.8 and [§ 62.1-44.15:23](https://law.lis.virginia.gov/vacode/62.1-44.15%3A23/) of the Code of Virginia, the implementation plan shall include, where appropriate to the type of restoration and project: Certification that the owner will obtain all appropriate permits or other authorizations needed to construct and maintain the restoration activities, prior to initiating work in state waters. |  |  |
| **2:** An initial stream restoration plan, which shall include the following: The goals and objectives in terms of proposed nutrient reductions and restoration activities. |  |  |
| **2.a:** A detailed location map (e.g., a U.S. Geologic Survey topographic quadrangle map) including latitude and longitude to the nearest second and the hydrologic unit code (HUC) at the center of the site. |  |  |
| **2.b:** A description of the surrounding land use. |  |  |
| **2.c:** The preliminary proposed stream segment restoration locations, including plan view, profile, and cross-section sketches; |  |  |
| **3:** A preliminary buffer planting scheme, including suggested plant species and zonation of each vegetation type proposed. |  |  |
| **4:** The plan shall include methods for invasive plant species control and eradication if woody invasive plant species impacts 5% or more of land conversion area and baseline buffer area. |  |  |
| **5:** Any harvesting of timber in land conversion areas shall adhere to best management practices as set forth by Department of Forestry's [Water Quality Guide](https://dof.virginia.gov/wp-content/uploads/VAs-Forestry-BMP-Technical-Guide_pub.pdf) and any other applicable local, state, or federal laws or requirements |  |  |
| **6:** The land management goals. |  |  |
| **7:** A statement that no fertilizer is to be used in the land conversion area and baseline buffer area. |  |  |
| **8:** A plan for phased planting, if applicable. |  |  |
| **9:** A description of agricultural baseline requirements implemented in accordance with [9VAC50-900-100 B](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section100/), if applicable. |  |  |
| **10:** Performance standards and reporting procedures demonstrating ongoing compliance with the baseline requirements of [9VAC25-900-100 B](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section100/), if applicable. |  |  |
| **11:** Descriptions of existing soils, including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments. |  |  |
| **12:** A preliminary design of any water control systems or structures for restoration or establishment. |  |  |
| **13:** Depiction of any land conversion or additional buffer areas associated with the nutrient credit-generating project, if applicable. |  |  |
| **14:** A description of any structures or features necessary for the success of the site. |  |  |
| **15:** A preliminary schedule for site construction. |  |  |
| **16:** The preliminary proposed stream segment restoration locations, including plan view, profile, and cross-section sketches. |  |  |
| **17:** The existing stream deficiencies that need to be addressed. |  |  |
| **18:** The proposed restoration measures to be employed, including channel measurements, proposed design flows, types of instream structures, and conceptual planting scheme for streambank plantings. |  |  |
| **19:** Reference stream data, if available. |  |  |
| **20:** Prior to construction of the restoration site, the following final plans shall be submitted where appropriate to the type of restoration: |  |  |
| **20.a:** A final stream restoration plan, which shall include the a summary of the type and acreage or linear feet of impacts to state waters anticipated during the construction of the restoration site and the proposed compensation for these impacts; |  |  |
| **20.b:** A detailed plan view, profile, and cross-section sketches with the location of proposed restoration measures. |  |  |
| **20.c:** A site access plan. |  |  |
| **20.d:** An erosion and sediment control plan meeting the requirements of [9VAC25-840](https://law.lis.virginia.gov/admincode/title9/agency25/chapter840/). |  |  |
| **20.e:** The final construction schedule. |  |  |
| **21:** A monitoring plan, which shall include:   |  |  |
| **21.a:** Monitoring goals; |  |  |
| **21.b:** Proposed performance standards; |  |  |
| **21.c:** Parameters to be monitored; |  |  |
| **21.d:** Methods of monitoring; |  |  |
| **21.e:** Length of monitoring period; |  |  |
| **21.f:** Monitoring and reporting schedule; |  |  |
| **21.g:** Reporting requirements; and |  |  |
| **21.h:** Projects responsible for monitoring and reporting. |  |  |
| **22:** Performance standards for restoration shall include specific, measurable parameters for determination of performance in comparison to as-built conditions. For stream restoration, performance standards may include applicable parameters to demonstrate characteristics of channel stability, including dimension, pattern, profile, materials, and stability of the channel and any structures. |  |  |
| **Part G: Signature Requirements** **9VAC25-130** |  |  |
| **1:** For a corporation, the application shall be signed by a responsible corporate officer (a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy-making or decision-making functions for the corporation or the manager of the nutrient credit-generating project provided the manager is authorized to make management decisions that govern the operation of the project). |  |  |
| **2:** For a partnership or sole proprietorship, the application shall be signed by a general partner or the proprietor, respectively. |  |  |
| **3:** For a municipality, state, federal, or other public agency, the application shall be signed by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes the chief executive officer of the agency or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency. |  |  |

| **For Credit Release Requests Provide at Minimum:** | **Included****(Y, N, or N/A)** | **Page Number(s)****Or Location(s)** |
| --- | --- | --- |
| **Part A: Nutrient Credit Release and Registration****9VAC25-900-90** |  |  |
| **1:** Final Credit release table in accordance with [9VAC25-900-90](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section90/) (Optional) |  |  |
| **2:** Monitoring methods and parameters shall be selected based on type of restoration, the implementation plan, and performance standards of the nutrient credit-generating project, and will be outlined in the monitoring plan. For stream restoration, the plan shall include the location and number of stations utilized for photo-monitoring, cross-sections, profiles, pattern measurements, streambank stability measurements, streambank vegetation surveys, bank pins, scour chains, stream gages, rain gages, other monitoring equipment, and reference streams, if available. |  |  |
| **3:** The monitoring and reporting schedule shall include an as-built survey in accordance with [9VAC25—120.H.4.c.(3)](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section120/). |  |  |
| **4:** A long-term management plan, which shall include: restoration projects shall include minimization of active engineering features (e.g., pumps) that require long-term management and appropriate site selection to ensure that natural hydrology and landscape context will support long-term sustainability. |  |  |
| **5:** Long-term management and maintenance plan, which shall include basic management as necessary to ensure long-term sustainability of the nutrient credit-generating project such as long-term repair or replacement, maintenance of water control or other structures, or easement enforcement. |  |  |
| **6:** The owner shall designate a responsible long-term steward in the plan. The owner of the nutrient credit-generating project is the default long-term steward and is responsible for implementing the long-term management plan and management of the financial assurance. However, the owner may transfer the long-term management responsibilities and management of the long-term financial assurance to a long-term steward or land stewardship project, such as a public agency, nongovernmental organization, or private land manager, upon review and approval by the department. |  |  |
| **7:** Long-term management needs, annual cost estimates for these needs, and identifying the funding mechanism that will be used to meet these needs shall be included. |  |  |
| **8:** Evidence the owner holds a valid Certificate of Resource Management Plan Implementation for the management area that has been issued pursuant to the Resource Management Plans regulation ([4VAC50-70](https://law.lis.virginia.gov/admincode/title4/agency50/chapter70/section40/)). |  |  |
| **9:** If the owner does not hold a valid Certificate of Resource Management Plan for the management area, the following shall implemented, as applicable: |  |  |
| **9.a:** Soil conservation. Soil conservation practices for the management area shall be implemented and maintained to achieve a maximum soil loss rate not to exceed "T" and to address gross erosion when it is present as gullies or other severely eroding conditions. |  |  |
| **9.b:** Nutrient management. Implementation and maintenance of the nutrient management practices required by the nutrient management plan written by a certified nutrient management planner pursuant to the Nutrient Management Training and Certification Regulations. DCR certified nutrient management planners are listed in the following [Directory](https://www.dcr.virginia.gov/soil-and-water/document/nmdir.pdf). |  |  |
| **9.c:** Riparian buffer. A woodland or grass riparian buffer shall be installed and maintained around all water bodies with perennial flow within the management area and shall be installed and maintained along all water bodies with perennial flow bordering the management area. The riparian buffer shall be a minimum width of 35 feet as measured from the top of the channel bank to the edge of the cropland, hayland, or pasture and in accordance with specifications for [NO. FR-3](https://consapps.dcr.virginia.gov/htdocs/agbmpman/BMPs/FR-3_2024.pdf) or specifications for [NO. WQ-1](https://consapps.dcr.virginia.gov/htdocs/agbmpman/BMPs/WQ-1_2024.pdf) contained in the VACS BMP Manual. |  |  |
| **9.d:** Cover crop. For croplands, cover crops shall be planted to meet the standard planting date and other specifications in accordance with specifications for [NO. SL-8B](https://consapps.dcr.virginia.gov/htdocs/agbmpman/BMPs/SL-8B_2024.pdf) contained in the VACS BMP Manual. This requirement applies to all croplands where summer annual crops are grown and the summer annual crop receives greater than a total of 50 pounds per acre of nitrogen application from any nutrient source; however, if the cropland is planted to winter cereal crops for harvest in the spring, then cover crops do not need to be planted on these croplands during that production year. |  |  |
| **9.e:** Livestock water body exclusion. For pastures or when livestock are present within the management area, livestock exclusion fencing shall be placed around perennial streams, rivers, lakes, ponds, or other water bodies having perennial flow, in accordance with specification [NO. WP-2W](https://consapps.dcr.virginia.gov/htdocs/agbmpman/BMPs/WP-2W_2024.pdf) contained in the VAC BMP Manual in order to restrict livestock access to the water body.  |  |  |
| **10:** A copy of the recorded site protection instrument for the site on which the nutrient credit-generating project is located. |  |  |
| **11:** Evidence that the site has achieved a minimum of 400 woody stems per acre for any land conversion included in the project. |  |  |
| **12:** For land conversion associated with the project and for year one post-growing season credit release requests after an initial credit release has been issued, provide evidence that the implementation plan's performance criteria required pursuant to [9VAC25-900-120.C.2](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section120/) has been achieved. |  |  |
| **13:** DEQ has conducted a post-construction site visit. |  |  |
| **Part B: Financial Assurance9VAC25-900-230** |  |  |
| **1:** An owner of a nutrient credit-generating project using proposed new restoration practices not subject to 33 CFR 332.8 and [§ 62.1-44.15:23](https://law.lis.virginia.gov/vacode/62.1-44.15%3A23/) of the Code of Virginia for the generation of perpetual credits shall be required to submit and maintain financial assurance.  |  |  |
| **2:** A monitoring plan financial assurance mechanism shall be established to ensure implementation of the monitoring plan pursuant to [9VAC25-900-120](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section120/) for any nutrient credits generated from restoration in accordance with [9VAC25-900-230.C.1](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/).  |  |  |
| **3:** A long-term management fund financial assurance mechanism shall be established in support of required long-term management plan tasks pursuant to [9VAC25-900-120](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section120/) for any nutrient credits generated from restoration [9VAC25-900-230.C.2, C.3, and D.](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/) |  |  |
| **Part C: Cost Estimates9VAC25-900-250** |  |
| **1.** The owner of the nutrient credit-generating project utilizing proposed new wetland or stream restoration practices not subject to 33 CFR 332.8 and [§ 62.1-44.15:23](https://law.lis.virginia.gov/vacode/62.1-44.15%3A23/) of the Code of Virginia will develop a separate written cost estimate for each of the applicable financial assurance requirements provided in [9VAC25-900-230](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/). |  |  |
| **2:** Monitoring plan financial assurance cost estimates shall be sufficient to hire another qualified entity to monitor and report on performance standards for the nutrient credit-generating project in the event of noncompliance in accordance with [9VAC25-900-250.B.1](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section250/). |  |  |
| **3:** Long-term management fund financial assurance cost estimates shall be based on the size and complexity of the implementation plan, long-term management plan tasks, and any other factors that the department deems appropriate and will state the total dollar amount required to fund this financial assurance in accordance with [9VAC25-900-250.B.2](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section250/). |  |  |
| **Part D: Financial Assurance Requirements for Perpetual Credits9VAC25-900-270 and 9VAC25-900-280** |  |  |
| **1:** The owner may only use a trust fund as provided in [9VAC25-900-290](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section290/) to demonstrate financial assurance for the long-term management fund as described in [9VAC25-900-230.C.2](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/), unless a third-party long-term steward is approved by the department in accordance with [9VAC25-900-230.C.3](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/). |  |  |
| **2:** The financial assurance mechanism used shall provide funding for the full amount of the cost estimate or of the sum of all cost estimates at all times. |  |  |
| **3:** Subject to the limitation and requirements outlined in [9VAC25-900-270](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section270/), an owner of a nutrient credit-generating project utilizing restoration practices to generate perpetual credits and required to submit financial assurance pursuant to [9VAC25-900-230](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section230/), may use any one or combination of mechanisms listed in [9VAC25-900-290](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section290/) through [9VAC25-900-330](https://law.lis.virginia.gov/admincode/title9/agency25/chapter900/section330/) to meet the financial assurance requirements for the monitoring plan; however, only a trust fund may be used to meet the financial assurance requirements for the long-term management fund, unless a third-party long-term steward is approved by DEQ in accordance with [9VAC25-230.C. 3](https://law.lis.virginia.gov/admincode/title9/agency25/chapter230/). |  |  |

**How to Submit:**

o **DEQ Land Use Conversion Nutrient Credit Certification Application Review Process:**

Please begin the application process by completing this Application Checklist and provide an **Application Document** containing all the information required on this checklist for initial submissionto the DEQ Nonpoint Source Trading Coordinators via email to Tyler.Monteith@deq.virginia.gov and Derick.Winn@deq.virginia.gov. Please contact the Nonpoint Source Trading Coordinators to schedule a pre-application site visit prior to initial plan submission. Pre-application site visits are highly encouraged but not required.

**Applications** with a large file size may be submitted to DEQ electronically through the file sharing service VITAShare. Please contact the Nonpoint Source Trading Coordinators above to initiate a file transfer via the VITAShare site. DEQ is unable to accept plans submitted through other file-sharing services at this time. Once this Checklist is submitted, DEQ staff will respond within 48 hours or by the end of the following business day.

Paper copies of the plans are not required for DEQ review.

All submissions are reviewed in the order they are received unless otherwise specified. Submissions are assigned to an individual Nonpoint Source Trading Coordinator who will act as the project’s primary Point of Contact (POC).  Project specific inquiries should be directed to the POC.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information."

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*Applicant Printed Name*

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*Applicant Signature Date*