

1 Project 3140 - none

2 VIRGINIA SOIL AND WATER CONSERVATION BOARD

3 Resource Management Plans

4 Monday, March 19, 2012 version

5
6 CHAPTER 70

7 RESOURCE MANAGEMENT PLANS

8
9 **4VAC50-70-10. Definitions.**

10 "Assessment" means an onsite review of a management unit.

11 "Best management practice" or "BMP" means structural and nonstructural practices that
12 manage soil loss, nutrient losses, or other pollutant sources to minimize pollution of water
13 resources and improve water quality.

14 "Board" means the Virginia Soil and Water Conservation Board.

15 "Corrective action agreement" means a written agreement that guides the owner or operator
16 in the steps needed, and the specific remedies required to return to compliance with the
17 minimum standards of a resource management plan.

18 "Department" means the Department of Conservation and Recreation.

19 "Management unit" means one or more agricultural fields or United States Department of
20 Agriculture Farm Service Agency tracts, under the control of the owner or operator and
21 identified as the appropriate unit for RMP implementation. The management unit may consist of
22 multiple fields and tracts, or an entire agricultural operation.

23 "NRCS" means the United States Department of Agriculture Natural Resources
24 Conservation Service.

25 "Operator" means a person who exercises managerial control over the management unit.

26 "Owner" means a person who owns land included in a management unit.

27 "Person" means an individual, corporation, partnership, association, state, municipality,
28 commission, or political subdivision of a state, governmental body, any interstate body, or any
29 other legal entity.

30 "Resource management plan" or "RMP" means a plan developed and implemented pursuant
31 to the standards established by this chapter.

32 "Review authority" means a soil and water conservation district or the department where no
33 soil and water conservation district exists, that is authorized under this chapter to determine the
34 adequacy of a resource management plan and perform other duties specified by this chapter.

35 "RMP developer" means an individual who meets the qualifications established by this
36 chapter to prepare or revise a resource management plan.

37 "Soil and water conservation district" or "district" means a political subdivision of the
38 Commonwealth organized in accordance with the provisions of §10.1-500 et seq. of the Code of
39 Virginia.

40 "Technical Review Committee" or "TRC" means a committee established by a soil and water
41 conservation district board to review RMPs and provide recommendations to the soil and water
42 conservation district board regarding RMPs. A TRC may include, but not be limited to, the
43 following members: soil and water conservation district directors, associates, and personnel,
44 Virginia Cooperative Extension personnel, department nutrient management specialists, and
45 such other technical resources available to the district.

46 “Total maximum daily load” or “TMDL” means a calculation of the maximum amount of a
47 pollutant that a waterbody can receive and still meet water quality standards, and an allocation
48 of that amount to the pollutant's sources. A TMDL includes wasteload allocations for point
49 source discharges, and load allocations for nonpoint sources or natural background or both, and
50 must include a margin of safety and account for seasonal variations.

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52 **4VAC50-70-20. Purpose and Authority.**

53 Pursuant to Article 1.1 of Title 10.1 of the Code of Virginia, these regulations are adopted to
54 clarify and specify the criteria that must be included in a resource management plan and the
55 processes by which a Certificate of RMP Implementation is issued and maintained. Except as
56 provided for in 4VAC50-70-30, agricultural landowners or operators who fully implement and
57 maintain the applicable components of their resource management plans, in accordance with
58 the criteria for such plans set out in § 10.1-104.8 of the Code of Virginia and any requirements
59 of this chapter, shall be deemed to be in full compliance with any load allocation contained in a
60 TMDL established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria,
61 nutrient, or sediment impairments; any requirements of the Virginia Chesapeake Bay TMDL
62 Watershed Implementation Plan; and applicable state water quality requirements for nutrients
63 and sediment.

64
65 **4VAC50-70-30. Applicability of other laws and regulations.**

66 Nothing in this chapter shall be construed as limiting the applicability of other laws,
67 regulations, or permits, including but not limited to, a Virginia Pollutant Discharge Elimination
68 System Permit, a Virginia Pollution Abatement Permit, a nutrient management plan otherwise
69 required by law, any requirements of the Chesapeake Bay Preservation Act, and any
70 requirements of the Agricultural Stewardship Act.

71
72 **4VAC50-70-40. Minimum standards of a resource management plan.**

73 A. Pursuant to Article 1.1 of Title 10.1 of the Code of Virginia, a resource management plan
74 requires the implementation of BMPs sufficient to implement the Virginia Chesapeake Bay
75 TMDL Watershed Implementation Plan and other local TMDL water quality requirements of the
76 Commonwealth. Pursuant to subdivision B 5 of § 10.1-104.8 of the Code of Virginia, a RMP
77 shall address all of the following BMP requirements when applicable to the management unit
78 and needed based upon an on-farm assessment of the following land uses:

- 79 1. For all cropland or specialty crops:
- 80 a. A nutrient management plan that meets the specifications of the Nutrient
 - 81 Management Training and Certification Regulations (4VAC5-15);
 - 82 b. A forest or grass buffer between cropland and perennial streams shall be
 - 83 consistent with NRCS standards and specifications except no buffer shall be less
 - 84 than a minimum width of 35 feet as measured from the top of the channel bank to the
 - 85 edge of the field to meet water quality objectives;
 - 86 c. A soil conservation plan that achieves a maximum soil loss rate to “T”, as defined
 - 87 by NRCS and such BMPs necessary to address gross erosion when it is present as
 - 88 gullies or other severely eroding conditions; and
 - 89 d. Cover crops, when needed to address nutrient management and soil loss
 - 90 requirements, that provide for reportable practices which meet best management
 - 91 practice specifications as determined by NRCS or the Virginia Agricultural Best
 - 92 Management Practices Cost-Share Program.

- 93 2. For all hayland:
94 a. A nutrient management plan that meets the specifications of the Nutrient
95 Management Training and Certification Regulations (4VAC5-15);
96 b. A forest or grass buffer between cropland and perennial streams shall be
97 consistent with NRCS standards and specifications except no buffer shall be less
98 than a minimum width of 35 feet as measured from the top of the channel bank to the
99 edge of the field to meet water quality objectives; and
100 c. A soil conservation plan that achieves a maximum soil loss rate to "T", as defined
101 by the NRCS and such BMPs necessary to address gross erosion when it is present
102 as gullies or other severely eroding conditions.

- 103 3. For all pasture:
104 a. A nutrient management plan that meets the specifications of the Nutrient
105 Management Training and Certification Regulations (4VAC5-15);
106 b. A pasture management plan or soil conservation plan that achieves a maximum
107 soil loss rate of "T" as defined by NRCS and such BMPs necessary to address gross
108 erosion when it is present as gullies or other severely eroding conditions; and
109 c. A system that limits or prevents livestock access to perennial streams requires
110 that:
111 (1) Any fencing or exclusion system provides year-round livestock restriction to
112 perennial streams;
113 (2) A forest or grass buffer between the exclusion system and a perennial stream
114 shall be consistent with NRCS standards and specifications except no buffer shall be
115 less than a minimum width of 35 feet as measured from the top of the channel bank
116 to the exclusion system to meet water quality objectives; and
117 (3) Provisions which are made for access through stream crossings and livestock
118 watering systems are designed to NRCS standards and specifications and are
119 determined necessary by the RMP developer.

120 B. Other BMPs approved by the department may be applied to achieve the minimum
121 standards of this section beyond those already identified by NRCS or within the Virginia
122 Agricultural Best Management Practices Cost-Share Program.

123 C. The department shall evaluate the minimum standards of this section to determine their
124 adequacy when revisions occur to a load allocation contained in a TMDL established under §
125 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment
126 impairments; requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation
127 Plan; and applicable state water quality requirements for nutrients and sediment. Changes to
128 the minimum standards by the board may result in the use of BMPs identified in the
129 Chesapeake Bay Watershed Model, identified in the Virginia Chesapeake Bay TMDL
130 Watershed Implementation Plan, or approved by the department.

131

132 **4VAC50-70-50. Components of a resource management plan.**

133 A. Pursuant to subdivision B 3 of §10.1-104.8 of the Code of Virginia, an assessment shall
134 be performed by the RMP developer or by an individual authorized by the RMP developer to
135 perform work on their behalf, and shall gather and evaluate the following information:

- 136 1. Information on the location of the management unit including geographic coordinates,
137 United States Department of Agriculture Farm Service Agency tract number or numbers,
138 if applicable, or the locality tax parcel identification number or numbers;

- 139 2. Description of the management unit, including acreage, water features,
140 environmentally sensitive features, erosion issues, and agricultural activity;
141 3. Contact information for the owner or operator who has requested the RMP, including
142 name, address, and telephone number;
143 4. Authorization from the owner or operator for the RMP developer, or his designee, for
144 right of entry and access to property specified within the management unit, and
145 authorization to obtain copies of any conservation or water quality plans necessary for
146 the assessment;
147 5. Copies of nutrient management plans, soil conservation plans from NRCS, RMPs,
148 and any other conservation or water quality plan that includes the implementation of
149 BMPs; and
150 6. Information on the location and status of all BMPs and other alternative measures
151 applicable to the management unit that are currently implemented.

152 B. Following the assessment provided in subsection A the RMP developer shall prepare a
153 RMP in a format established by the department or in a format approved by the board as
154 equivalent that contains the following components:

- 155 1. A determination of the adequacy of existing BMPs, conservation plans, and water
156 quality plans, in meeting the minimum standards set out in 4VAC50-70-40;
157 2. A complete list of BMPs, developed as a result of the assessment required in
158 Subsection A, that may be utilized to meet the minimum standards set out in 4VAC50-
159 70-40;
160 3. A complete list of the BMPs that the owner or operator agrees to implement or
161 maintain to meet the minimum standards set out in 4VAC50-70-40;
162 4. A confirmation of BMPs that achieve the minimum standards set out in 4VAC50-70-
163 40;
164 5. A schedule for the implementation of the BMPs;
165 6. An inclusion of any current nutrient management plans, soil conservation plans, and
166 any other conservation or water quality plans that include the implementation of BMPs;
167 and
168 7. Other information collected pursuant to subsection A.

169 C. Certification

- 170 1. A RMP developer must certify that the RMP is true and correct in their professional
171 judgment.
172 2. The RMP must be signed by the owner or operator affirming that they:
173 a. Are the responsible individual to be implementing the RMP in its entirety;
174 b. Shall adhere to the RMP;
175 c. Shall allow the review authority to conduct inspections of properties within the
176 management unit as needed to ensure the adequacy of the RMP in accordance with
177 4VAC50-70-70;
178 d. Shall notify a RMP developer within 60 days of potential material changes to the
179 management unit that may require revision of the plan pursuant to 4VAC50-70-60;
180 and
181 e. Shall notify the review authority of a complete change in owner or operator of the
182 management unit or units under a RMP. If a management unit falls within one or
183 more soil and water conservation districts the owner or operator shall contact the
184 district containing the greatest land area of the management unit.

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4VAC50-70-60. Revisions to a resource management plan.

A. Upon notification of the review authority by an owner or operator of a change in owner or operator of the management unit with a signed RMP, in accordance with 4VAC50-70-50 C 2 e where it involves the complete transfer of one or more RMPs and any Certificate or Certificates of RMP Implementation previously issued by the department for such RMPs:

1. The review authority shall contact the new owner or operator within 60 days of the new owner or operator assuming control of the management unit regarding implementation of the RMP and any necessary revisions.

2. The new owner or operator, following consultation with the review authority may elect to:

a. Implement and maintain the provisions of the existing RMP. The new owner or operator must sign the RMP in accordance with 4VAC50-70-50 C. If a Certificate of RMP Implementation has been issued to the prior owner or operator, the Certificate shall be transferred by the department to the new owner or operator upon notification by the review authority. The transferred Certificate shall be valid for the balance of time remaining since it was originally issued by the department;

b. Contact a RMP developer when changes in the operation are planned by the new owner or operator, or are otherwise required by this chapter. The new owner or operator may request a RMP developer revise the RMP as necessary to fulfill BMP requirements pursuant to 4VAC50-70-50, and the administrative requirements of subsection D; or

c. Choose not to continue implementing a RMP. If a Certificate of RMP Implementation for the management unit has been issued, it shall be revoked by the department.

B. Upon notification of the RMP developer by the owner or operator of the management unit with a signed RMP in accordance with 4VAC50-70-50 C, that changes in the management unit or implementation of the RMP may create needs for revision, the RMP developer shall review the RMP within 30 days to determine if material changes to the management unit require a revision of the RMP in accordance with the following:

1. Material changes to the management unit that may require a revision of the RMP include:

a. A conversion from one type of agricultural operation to another;

b. A change in the schedule and type of BMPs implemented pursuant to 4VAC50-70-50;

c. An increase or decrease in production acreage that materially impacts the management unit's ability to meet the minimum standards set out in 4VAC50-70-40;

d. An increase or decrease in livestock population that materially impacts the management unit's ability to meet the minimum standards set out in 4VAC50-70-40; or

e. Any other change the RMP developer identifies that would materially impact the management unit's ability to meet the minimum standards set out in 4VAC50-70-40.

2. A RMP developer will determine if revision of the RMP is required. When the RMP developer determines that revision of the existing RMP is not necessary, the RMP developer shall provide such determination to the requesting owner or operator in writing. Such documentation shall be available upon inspection by the review authority.

231 When the RMP developer determines that revision of the existing RMP is necessary, the
232 owner or operator may elect to:

233 a. Request the RMP developer revise the RMP as necessary to fulfill RMP
234 requirements pursuant to 4VAC50-70-50, and the administrative requirements of
235 subsection D; or

236 b. Choose not to continue implementing a RMP whereupon the RMP for the
237 management unit shall no longer be valid. The RMP developer shall notify the review
238 authority and the department, in writing, of this decision by the owner or operator. If a
239 Certificate of RMP Implementation for the management unit has been issued, it shall
240 be revoked by the department.

241 C. When an owner or operator does not hold a Certificate of RMP Implementation for a RMP
242 that has been approved by the review authority, revision of the RMP is required when a new or
243 modified watershed implementation plan is issued for the Chesapeake Bay or a new or modified
244 local approved TMDL is issued which assigns a load to agricultural uses. A RMP covering land
245 with waters that drain to such TMDL shall be deemed sufficient when the RMP has been revised
246 to address the new or modified TMDL and the owner or operator agrees to implement the
247 revised RMP, except as provided in subsection D.

248 D. When an owner or operator holds a Certificate of RMP Implementation that has not
249 expired, revision of the RMP specified in subsection C is not required. In this case the owner or
250 operator may continue operation of the RMP without revision due to a new or modified
251 watershed implementation plan for the Chesapeake Bay or a new or modified local approved
252 TMDL for the lifespan of the Certificate of RMP Implementation so long as the owner or operator
253 is deemed to be fully implementing the RMP.

254 E. When an owner or operator with a revised RMP fulfills all requirements pursuant to this
255 section and 4VAC50-70-70, and the owner or operator holds a Certificate of RMP
256 Implementation that has not expired for the management unit addressed by the revised RMP,
257 the owner or operator may request that the department revoke the existing Certificate of RMP
258 Implementation and issue a new Certificate of RMP Implementation. The department shall
259 evaluate and respond to all requests. Upon verification that all requirements have been
260 satisfied, the department shall issue a new Certificate of RMP Implementation in a timely
261 manner and ensure that no owner or operator is found out of compliance with any requirements
262 of this chapter due to any delays in the department's issuance of a new Certificate of RMP
263 Implementation pursuant to this subsection even if the original Certificate expires during this
264 issuance time period.

265 F. Revision of a RMP by a RMP developer requires:

266 1. If a Certificate of RMP Implementation has not been issued, the revised RMP shall be
267 provided to the review authority and shall be subject to all review requirements set out in
268 4VAC50-70-70, and shall be subject to the requirements for issuance of a Certificate of
269 RMP Implementation pursuant to 4VAC50-70-80.

270 2. If a Certificate of RMP Implementation has been issued by the department and its
271 duration has not expired, such existing Certificate of RMP Implementation shall remain
272 valid for the balance of time remaining since it was originally issued by the department or
273 a new Certificate of RMP Implementation may be issued where appropriate in
274 accordance with subsection E.

275 3. An existing or new owner or operator shall sign a revised RMP pursuant to 4VAC50-
276 70-50 C.

277 4. When a valid Certificate of RMP Implementation has been issued by the department
278 for the management unit, the RMP developer shall provide the review authority and the

279 department with a copy of a revised RMP within 30 days of completion of the revised
280 plan.

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282 **4VAC50-70-70. Review of a resource management plan.**

283 A. Upon completion of a new or revised RMP in accordance with 4VAC50-70-50 and
284 4VAC50-70-60, the owner or operator, or the RMP developer on behalf of the owner or
285 operator, shall submit the RMP to the review authority.

286 B. Each soil and water conservation district shall establish a Technical Review Committee.
287 RMPs received by a soil and water conservation district shall be referred to the TRC for review
288 to ensure the RMP fully meets the minimum standards set forth in 4VAC50-70-40 and the
289 components specified in 4VAC50-70-50. Within 90 days of receipt of a RMP, the soil and water
290 conservation district shall notify the owner or operator and the RMP developer in writing if the
291 RMP fulfills such requirements. A RMP that fails to fulfill such requirements shall be returned to
292 the RMP developer noting all deficiencies. A revised RMP may be resubmitted once the noted
293 deficiencies have been satisfactorily addressed. Revised submittals shall be reviewed and a
294 response regarding RMP sufficiency or a listing of RMP deficiencies provided within 45 days of
295 receipt.

296 C. If a RMP is located within multiple soil and water conservation districts, each TRC will
297 review the portion of the plan applicable to the management unit within their district, either in
298 consultation or independently of each other. The soil and water conservation district with the
299 largest amount of acreage under the RMP has lead responsibility for coordinating the review
300 among multiple districts, resolving disputes, corresponding with the owner or operator and RMP
301 developer regarding the RMP review, and when appropriate submitting required documentation
302 to the department to support issuance of a Certificate of RMP Implementation.

303 D. RMPs received by the department where no local soil and water conservation district
304 exists must fully meet minimum standards set forth in 4VAC50-70-40 and the components
305 specified in 4VAC50-70-50 and shall be reviewed by the department. Within 90 days of receipt
306 of a RMP, the department shall notify the owner or operator and the RMP developer if the RMP
307 fulfills such requirements. A RMP that fails to fulfill such requirements shall be returned to the
308 RMP developer noting all deficiencies. A revised RMP may be resubmitted once the noted
309 deficiencies have been satisfactorily addressed. Revised submittals shall be reviewed and a
310 response regarding RMP sufficiency or a listing of RMP deficiencies provided within 45 days of
311 receipt.

312 E. When a RMP is determined by the review authority to be insufficient to meet minimum
313 standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50 such
314 review authority shall work with the owner or operator and the RMP developer to revise the
315 RMP.

316 F. Where a RMP is deemed sufficient the notification issued to the owner or operator and
317 the RMP developer by the review authority shall include approval of the plan and its
318 implementation in accordance with subsection B or D, whichever is applicable.

319 G. When an owner or operator is aggrieved by an action of the review authority pursuant to
320 this section, the owner or operator shall have a right to appeal in accordance with 4VAC50-70-
321 110.

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323 **4VAC50-70-80. Issuance of a Certificate of Resource Management Plan Implementation.**

324 A. Prior to issuance of a Certificate of RMP Implementation for a management unit,
325 confirmation shall be made by the RMP developer that no revision of the RMP is required in
326 accordance with 4VAC50-70-60 and as such is adequate, and verification of the full

327 implementation of the RMP shall be completed. The owner or operator shall request the
328 verification of RMP implementation by the review authority.

329 B. The request to the review authority for verification in a format provided by the department
330 shall include the following:

331 1. A complete copy of the RMP including any referenced plans;

332 2. Authorization for review authority employees to conduct an onsite inspection of the
333 management unit to ensure the RMP is fully implemented; and

334 3. Authorization upon the issuance of a Certificate of RMP Implementation for review
335 authority employees and the department to conduct onsite inspections of the
336 management unit to ensure the continued implementation, maintenance of, and
337 compliance with the RMP in accordance with 4VAC50-70-90.

338 C. If, based on onsite verification and a review of referenced plans by the local soil and
339 water conservation district where the district is the review authority, the RMP is determined to
340 be adequate and fully implemented in accordance with subsection A, the soil and water
341 conservation district board shall affirm such adequacy and implementation, and submit the
342 required documentation to the department for action. Upon receiving such documentation
343 supporting that the plan is adequate and has been fully implemented, the department shall issue
344 a Certificate of RMP Implementation.

345 D. Where the department is the review authority, the department shall determine adequacy
346 and full implementation of the RMP in accordance with subsection A through onsite verification
347 and a review of referenced plans. If, based on the onsite verification and a review of referenced
348 plans, the RMP is determined to be adequate and fully implemented, the department shall affirm
349 such implementation by issuing a Certificate of RMP Implementation.

350 E. If the resource management plan is not adequate or has not been fully implemented, the
351 review authority shall provide the owner or operator with written documentation that specifies
352 the deficiencies of the RMP within 30 days following the field review of the RMP. The owner or
353 operator may correct the named deficiencies and request verification of RMP adequacy or
354 implementation at such time as the shortcomings have been addressed.

355 F. A Certificate of RMP Implementation shall be valid for a period of nine years.

356 G. An owner or operator who holds a Certificate of RMP Implementation that has not
357 expired shall not be required to revise the RMP when the issuance of a new or modified
358 watershed implementation plan for the Chesapeake Bay TMDL or a new or modified local
359 approved TMDL impacts any portion of the management unit during the lifespan of the
360 Certificate of RMP Implementation so long as the owner or operator is deemed to be fully
361 implementing the RMP.

362 H. Upon the expiration of the Certificate of RMP Implementation, a new RMP may be
363 prepared by a plan developer for the management unit upon request by the owner or operator.
364 The RMP must conform with all existing TMDL implementation plans applicable to the
365 management unit to include the Chesapeake Bay and any local approved TMDL, which assign
366 a load to agricultural uses and impact any portion of the management unit. The plan developer
367 shall ensure the new RMP complies with requirements set forth in 4VAC50-70-40.

368 I. The department shall maintain a public registry on the agency's website of all current
369 Certificates of RMP Implementation in accordance with the provisions of subsection E of § 10.1-
370 104.7 of the Code of Virginia.

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372 **4VAC50-70-90. Inspections.**

373 A. Each management unit that has been issued a Certificate of RMP Implementation shall
374 be subject to periodic onsite inspections to be performed by the review authority. In addition the
375 department, when it is not the review authority but deems it appropriate, can conduct
376 inspections to ensure the continued implementation, maintenance of, and compliance with the
377 RMP.

378 B. Onsite inspections shall occur no less than once every three years but not more than
379 annually on lands where an active Certificate of RMP Implementation has been issued provided
380 that no deficiencies have been noted pursuant to this section that may require more frequent
381 inspections or re-inspections.

382 C. As part of an inspection, an owner or operator shall provide any documents needed to
383 verify the implementation of the RMP, any documents pertaining to revision of the RMP when
384 applicable, and any other referenced plans as applicable.

385 D. Upon the completion of the inspection, an inspection report shall be completed in a
386 format provided by the department, to document the implementation of the RMP on the
387 management unit. A copy of the inspection report shall be provided to the department with a
388 copy to the owner or operator, when inspections are performed by a soil and water conservation
389 district, within 10 business days following the date of inspection. The inspection report shall
390 include:

391 1. Confirmation of all BMPs implemented, operated, and maintained with a notation of
392 changes in the operation of any BMPs included in the RMP; and

393 2. Any identified deficiencies that may include any components of the RMP that have not
394 been satisfactorily implemented, components that need to be renewed, and any changes
395 to the management unit that may need to be addressed through revision of the RMP.

396 E. If based upon the inspection there are deficiencies noted, the department shall proceed
397 pursuant to 4VAC50-70-100.

398 F. All inspections or re-inspections conducted in accordance with this chapter shall occur
399 only after 48 hours of prior notice to the owner or operator unless otherwise authorized by the
400 owner or operator.

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402 **4VAC50-70-100. Compliance.**

403 A. If there are deficiencies identified during an inspection conducted in accordance with
404 4VAC50-70-90, following review of such deficiencies the department shall provide a written
405 notice to the owner or operator within 30 days of receipt of the inspection report. The written
406 notice shall include a list of the noted deficiencies that need to be addressed to meet full
407 implementation of the RMP.

408 B. Within 90 days of the written notice being issued to the owner or operator, a corrective
409 action agreement in a format provided by the department, which may include revisions to the
410 RMP, shall be developed by a RMP developer in consultation with the owner or operator, signed
411 by the owner or operator, and submitted to the department for consideration. The corrective
412 action agreement shall include an implementation schedule to correct the deficiencies found
413 during the inspection. The department shall review the corrective action agreement including
414 any revisions to the RMP within 30 days following receipt. The department shall consult with the
415 review authority. If the corrective action agreement, including any revisions to the RMP, is
416 determined by the department to be reasonable and satisfactory, the department shall convey
417 such determination to the owner or operator in writing within 30 days following receipt.

418 C. If the department determines that the corrective action agreement, including any
419 revisions to the RMP, does not satisfactorily address deficiencies documented from an

420 inspection conducted pursuant to 4VAC50-70-90, the department shall document such
421 deficiencies in writing to the owner or operator within 30 days following receipt of the corrective
422 action agreement. A revised corrective action agreement may be submitted once the noted
423 deficiencies have been satisfactorily addressed.

424 D. If the department and the owner or operator are unable to concur on a final corrective
425 action agreement within 90 days of the submission of the initial corrective action agreement to
426 the department or such additional time that is acceptable to the department, the department
427 shall revoke the owner's or operator's Certificate of RMP Implementation after an informal fact
428 finding proceeding held in accordance with § 2.2-4019 of the Code of Virginia.

429 E. If it is determined by the department through a re-inspection that an owner or operator
430 has failed to fully implement the agreed upon corrective action agreement, the department shall
431 revoke the owner's or operator's Certificate of RMP Implementation for the corrective action
432 agreement. Such re-inspection shall be performed by the department or by the review authority
433 when directed by the department.

434 F. At any time, the owner or operator may provide written notice to the department
435 requesting that the Certificate of RMP Implementation be revoked.

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437 **4VAC50-70-110. Appeals.**

438 A. An owner or operator that has been aggrieved by any action of a soil and water
439 conservation district, shall have a right to appeal to the department within 30 days of issuance of
440 the district's decision. The department shall make its decision on an appeal in accordance with
441 the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). In making its
442 decision on an appeal, the department will hold an informal fact finding proceeding held in
443 accordance with § 2.2-4019 of the Code of Virginia.

444 B. Any party, including but not limited to a district, an owner or operator, or a RMP
445 developer, aggrieved by and claiming the unlawfulness of a case decision of the department
446 shall have a right to appeal to the board in accordance with the Administrative Process Act (§
447 2.2-4000 et seq. of the Code of Virginia). In making its decision on an appeal, the board will hold
448 an informal fact finding proceeding held in accordance with § 2.2-4019 of the Code of Virginia.

449 C. Any party, including but not limited to a district, an owner or operator, or a RMP
450 developer, aggrieved by and claiming the unlawfulness of a case decision of the board shall
451 have a right to appeal to a court of competent jurisdiction in accordance with the Administrative
452 Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

453 D. Revocation of a Certificate of RMP Implementation, issued pursuant to 4VAC50-70-80,
454 shall be suspended pending any appeals.

455

456 **4VAC50-70-120. Reporting.**

457 A. BMP data collection and reporting shall occur:

458 1. When a RMP assessment is conducted by a soil and water conservation district or
459 when data is made available to a district by an owner or operator following an
460 assessment performed by a RMP developer or individual authorized by them to perform
461 an assessment pursuant to 4VAC50-70-50;

462 2. Upon changes or revisions to a RMP pursuant to 4VAC50-70-60;

463 3. Upon verification of the full implementation of the RMP as required by 4VAC50-70-80;

464 4. When inspections are conducted pursuant to 4VAC50-70-90; and

465 5. Upon any other opportunities when verification of BMP implementation becomes
466 available.

467 B. BMP data collected in accordance with subsection A shall be entered in the Virginia
468 Agricultural BMP Tracking Program, or any subsequent automated tracking systems made
469 available to soil and water conservation districts by the department.

470 C. BMP data entry by soil and water conservation districts shall occur throughout the year,
471 however, the annual reporting period shall begin July 1st of one year and end June 30th of the
472 following year. Districts shall ensure all collected data is fully entered in the data collection
473 system by July 31st following the close of the annual reporting period.

474 D. Any personal or proprietary information collected pursuant to Article 1.1 of Title 10.1 of
475 the Code of Virginia shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et
476 seq. of the Code of Virginia) and fully comply with all provisions of § 10.1-104.7 of the Code of
477 Virginia.

478 E. The department, in accordance with subsection D, shall make use of RMP BMP data for
479 purposes that include progress reporting for the Chesapeake Bay TMDL watershed
480 implementation plan; other local approved TMDLs; inclusion in the report required by § 2.2-220
481 of the Code of Virginia; and other reports required of the department or generated by the
482 agency.

483

484 **4VAC50-70-130. Review of duties performed by soil and water conservation districts.**

485 A. The department shall periodically conduct a comprehensive review of the RMP duties
486 performed by each soil and water conservation district to evaluate whether requirements set
487 forth by this chapter have been satisfactorily fulfilled. The department shall develop a schedule
488 for conducting periodic reviews and evaluations. Each district shall receive a comprehensive
489 review at least once every five years; however, the department may impose more frequent,
490 partial, or comprehensive reviews with cause. Such reviews where applicable shall be
491 coordinated with those being implemented by agency staff for other purposes which may
492 include annual spot checks of BMPs implemented by districts through the Virginia Agricultural
493 BMP Cost Share Program.

494 B. If a review conducted by the department indicates that the soil and water conservation
495 district has not administered, enforced where authorized to do so, or conducted its duties in a
496 manner that satisfies the requirements set forth within this chapter, the department shall
497 document such deficiencies and convey the needed corrective actions in writing to the soil and
498 water conservation district board of directors within 30 days following the review.

499 C. When the department determines:

500 1. The deficiencies are due to the district's failure to satisfactorily perform the required
501 duties with the resources at its disposal, the department shall provide close oversight,
502 guidance, and training as appropriate to enable the district to fully perform the duties
503 required by this chapter. If after such actions there remains one or more deficiencies that
504 cannot be resolved to the satisfaction of the department, the department may delay or
505 withhold funding under its authority and control, from the district that is not satisfactorily
506 performing its RMP duties. Such duties may be assigned to another soil and water
507 conservation district. Funds withheld from the district with deficiencies may be directed
508 to the district that is performing the additional RMP duties.

509 2. The deficiencies are due to a work demand generated by the duties required by this
510 chapter that exceed the district's existing resources, the department shall endeavor to
511 assist the district in the performance of its duties and in finding a solution to the shortage
512 of resources.

513

514 **4VAC50-70-140. Resource management plan developer qualifications and certification.**

515 A. An individual shall be qualified to serve as a RMP developer if the individual:

516 1. Is certified as a conservation planner by the NRCS and is certified as a nutrient
517 management planner by the department; or

518 2. Is certified as a nutrient management planner by the department and demonstrates
519 academic and applied proficiencies with and an understanding of all of the following:

520 a. Agricultural conservation planning;

521 b. State and federal environmental laws and regulations and local ordinances;

522 c. State and federal laws and regulations that address the identification and
523 preservation of historic resources;

524 d. Standards and specifications for agricultural conservation practices utilized in
525 Virginia and the ability to plan and implement such practices;

526 e. Soil erosion processes and skill in applying approved erosion prediction
527 technologies including the applicable current United States Department of Agriculture
528 Revised Universal Soil Loss Equation and the Wind Erosion Equation;

529 f. The fundamentals of water quality and nonpoint source pollution, pest
530 management, and fire management;

531 g. Site vulnerability assessment tools; and

532 h. Other proficiencies and understandings identified by the department in
533 consultation with the board.

534 B. In a format established by the department, such individual shall submit documentation to
535 the department for verification that the requirements of subsection A have been met.

536 1. Upon receipt the department shall review the documentation and issue its notification
537 within 60 days. During its review the department shall determine:

538 a. If all required documentation is complete. If incomplete the applicant shall be
539 notified;

540 b. If all requirements have been satisfied. If deficiencies exist the applicant shall be
541 notified.

542 2. Applicants with deficiencies may submit additional documentation in support of their
543 request to be certified. The department shall review the documentation provided within
544 30 days to determine its sufficiency.

545 3. When all requirements of this subsection have been met the department shall issue to
546 the applicant a Resource Management Plan Developer Certificate.

547 C. In the event that an individual's proficiency skills or the quality of technical work no longer
548 meet the criteria for RMP developer certification, the individual's certification may be revoked by
549 the department following a 7-day advance notification of the pending action, and the holding of
550 an informal fact finding proceeding held in accordance with §2.2-4019 of the Code of Virginia.
551 The department shall consider any action by NRCS to decertify a certified conservation planner.
552 A RMP developer may appeal a decision of the department to the board in accordance with
553 4VAC50-70-110.

554 D. When an individual's RMP developer certificate has been revoked by the department, the
555 basis for the revocation will be provided to the individual by the department. The individual will
556 be informed of the steps necessary to address the deficiencies that led to the revocation and to
557 re-establish certification.

558 E. Revocation of an individual's RMP developer certificate shall not result in revocation of a
559 Certificate of RMP Implementation of which the RMP developer was party to.

560 F. The department shall maintain a public registry on the agency's website of all individuals
561 issued a RMP developer certificate and shall note any subsequent revocations or other changes
562 to the status of RMP developers.

563

564 **4VAC50-70-150. Advancing the adoption of resource management plans.**

565 The department and districts shall encourage and promote the adoption of RMPs among
566 agricultural communities across the Commonwealth.