

(Previous Edits Accepted and Incorporated)

Resource Management Plan Regulations (4VAC50-70)

4VAC50-70-10. Definitions

"Assessment" means an onsite review of a management unit conducted pursuant to 4VAC50-70-50.

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

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

"Corrective action agreement" means a written agreement that guides the owner or operator in the steps needed, and the specific remedies required to return to compliance with the minimum standards of a resource management plan (4VAC50-70-40.)

"Department" means the Department of Conservation and Recreation.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

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

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

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

"Owner" means any person who owns land where an agricultural activity occurs included in a management unit.

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

"Resource Management Plan" or "RMP" means a plan developed and implemented pursuant to the standards established by this chapter.

"Review authority" means a soil and water conservation district or the department where no soil and water conservation district exists, that is authorized under this chapter to determine the adequacy of a resource management plan

"Resource Management Plan Developer" or "RMP developer" means a person who is certified as a conservation planner by the USDA Natural Resources Conservation Service, or meets qualifications approved by the Board to prepare a resource management plan.

(Previous Edits Accepted and Incorporated)

47 ~~“Local soil and water conservation district” or “Soil and water conservation district” or “district” means~~
48 ~~a local political subdivision of the Commonwealth organized in accordance with the provisions of §10.1-~~
49 ~~500 et seq.~~

50
51 ~~“Technical Review Committee” or “TRC” means a committee established by the local a soil and water~~
52 ~~conservation district board to review RMPs and provide recommendations to the local soil and water~~
53 ~~conservation district board regarding RMPs. A TRC may include, but not be limited to, the following~~
54 ~~persons members: local soil and water conservation district personnel, Virginia Cooperative Extension~~
55 ~~personnel, department nutrient management specialist, and NRCS personnel.~~

56
57 ~~“Total maximum daily load” or “TMDL” means a calculation of the maximum amount of a pollutant that~~
58 ~~a waterbody can receive and still meet water quality standards, and an allocation of that amount to the~~
59 ~~pollutant’s sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load~~
60 ~~allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of~~
61 ~~safety (MOS) and account for seasonal variations.~~

62
63 **4VAC50-70-20. Purpose and Authority**

64
65 Pursuant to Article 1.1 of Title §10.1 of the Code of Virginia, these regulations are adopted to clarify and
66 specify the criteria that must be included in a resource management plan. Any owner or operator who
67 satisfies all requirements of this chapter ~~these regulations (4VAC50-70) fully implementing a resource~~
68 ~~management plan~~ shall be deemed to be in full compliance with any load allocation contained in an
69 approved TMDL, any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation
70 Plan, and any applicable state water quality requirements for nutrients and sediment.

71
72 **4VAC50-70-30. Applicability of other laws and regulations**

- 73
74 A. ~~Nothing in this chapter shall be construed as limiting the applicability of other laws, regulations,~~
75 ~~or permits, including but not limited to, a Virginia Pollutant Discharge Elimination System~~
76 ~~Permit, a Virginia Pollution Abatement Permit, a nutrient management plan otherwise required~~
77 ~~by law for such operation, any requirements of the Chesapeake Bay Preservation Act, and any~~
78 ~~requirements of the Agricultural Stewardship Act.~~
79 B. ~~Owners and operators that wish to generate nutrient credits must comply with other regulatory~~
80 ~~criteria developed pursuant to the Commonwealth’s Nutrient Trading Programs.~~

81
82 **4VAC50-70-40. Minimum standards of a resource management plan.**

- 83
84 A. Pursuant to ~~§10.1-104.5, 10.1-104.6, and 10.1-104.7~~ Article 1.1 of Title §10.1 of the Code of
85 Virginia, a resource management plan requires the implementation of BMPs sufficient to comply
86 with ~~(i) any load allocation contained in an approved TMDL established under § 303 (d) of the~~
87 ~~federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment impairments; (ii) any~~
88 ~~requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and (iii)~~
89 ~~applicable state water quality requirements for nutrients and sediment. to reduce nutrients,~~
90 ~~sediments, and other pollutants from agricultural operations.~~ Pursuant to §10.1-104.6 B5, a
91 RMP shall include the following BMP requirements based upon the assessment of the following
92 land uses unless otherwise exempted in accordance with subsection B:

(Previous Edits Accepted and Incorporated)

- 93 1. ~~For all management units, a nutrient management plan that meets the specifications of the~~
94 ~~Nutrient Management Training and Certification Regulations (4VAC5-15);~~
95 2. ~~For management units in cropland, specialty crops, or hayland, a forest or grass buffer~~
96 ~~between the field in production and the perennial stream of a minimum width buffer of 35~~
97 ~~feet to meet water quality objectives and consistent with NRCS standards and specifications~~
98 3. ~~For management units in cropland, specialty crops, or hayland, a soil conservation plan that~~
99 ~~achieves a maximum soil loss rate of "T", as defined by the NRCS;~~
100 4. ~~For management units in pasture, a pasture management plan or soil conservation plan that~~
101 ~~achieves a maximum soil loss rate or "T" as defined by NRCS; and~~
102 5. ~~For management units in pasture, a system that limits or prevents livestock access to~~
103 ~~perennial streams in accordance with the following:~~
104 a. ~~Any fencing or exclusion system that provides year round livestock restriction to~~
105 ~~perennial streams;~~
106 b. ~~A 35 foot forest or grass buffer between the exclusion system and perennial~~
107 ~~streams; and~~
108 c. ~~Excludes livestock with provisions made for access through stream crossings and~~
109 ~~livestock watering systems designed to NRCS standards and specifications and~~
110 ~~determined necessary by the RMP developer.~~
111 1. ~~For a~~All cropland or specialty crops :
112 a. ~~A nutrient management plan that meets the specifications of the Nutrient~~
113 ~~Management Training and Certification Regulations (4VAC5-15);~~
114 b. ~~A forest or grass buffer between cropland and perennial streams of a minimum~~
115 ~~width of 35 feet as measured from the top of the channel bank to the edge of the~~
116 ~~field to meet water quality objectives. The buffer shall be consistent with NRCS~~
117 ~~standards and specifications;~~
118 c. ~~A soil conservation plan that achieves a maximum soil loss rate to "T", as defined by~~
119 ~~NRCS and such BMPs necessary to address gross erosion when it is present as gullies~~
120 ~~or other severely eroding conditions; and~~
121 d. ~~Cover crops meeting best management practice specifications as determined by~~
122 ~~NRCS or the Virginia Agricultural Best Management Practices Cost-Share Program.~~
123 2. ~~For a~~All hayland:
124 a. ~~A nutrient management plan that meets the specifications of the Nutrient~~
125 ~~Management Training and Certification Regulations (4VAC5-15);~~
126 b. ~~A forest or grass buffer between cropland and perennial streams of a minimum~~
127 ~~width of 35 feet as measured from the top of the channel bank to the edge of the~~
128 ~~field to meet water quality objectives. The buffer shall be consistent with NRCS~~
129 ~~standards and specifications; and~~
130 c. ~~A soil conservation plan that achieves a maximum soil loss rate to "T", as defined by~~
131 ~~the NRCS and such BMPs necessary to address gross erosion when it is present as~~
132 ~~gullies or other severely eroding conditions.~~
133 3. ~~For a~~All pasture:
134 a. ~~A nutrient management plan that meets the specifications of the Nutrient~~
135 ~~Management Training and Certification Regulations (4VAC5-15);~~
136 b. ~~A pasture management plan or soil conservation plan that achieves a maximum soil~~
137 ~~loss rate of "T" as defined by NRCS and such BMPs necessary to address gross~~
138 ~~erosion when it is present as gullies or other severely eroding conditions; and~~

(Previous Edits Accepted and Incorporated)

- 139 c. A system that limits or prevents livestock access to perennial streams in accordance
 140 with the following requires that:
 141 i. Any fencing or exclusion system provides year-round livestock restriction to
 142 perennial streams;
 143 ii. A 35 foot forest or grass buffer is established and maintained between the
 144 top of the channel bank of the perennial stream and the exclusion system;
 145 and
 146 iii. Excludes livestock with pProvisions made for access through stream
 147 crossings and livestock watering systems are designed to NRCS standards
 148 and specifications and are determined necessary by the RMP developer.
 149 A. Additional BMPs including those identified in the Chesapeake Bay Watershed Model, or
 150 identified in the Virginia Chesapeake Bay TMDL Watershed Implementation Plan, or approved
 151 by the board, may be utilized as needed to achieve the minimum standards set out above.
 152 B. If a management unit is unable to meet the minimum standards of the BMP requirements listed
 153 above, alternative BMPs and alternative measures, which achieve nutrient and water quality
 154 reductions objectives, may be utilized; however no RMP shall be deemed sufficient where:
 155 1. The average buffer width for the entire management unit is less than 35 feet on all lands
 156 that require a forest or grass buffer adjacent to perennial streams, where forest or grass
 157 buffers between cropland, specialty crops, or hayland border perennial streams and where
 158 livestock access to perennial streams requires a forest or grass buffer.
 159 2. Any field in cropland, specialty crops, hayland or pasture exceed a soil loss rate of "2T" as
 160 defined by the NRCS and such BMPs necessary to address gross erosion when it is present as
 161 gullies or other severely eroding conditions..
 162

4VAC50-70-50. Components of a resource management plan.**A RMP shall contain the following components:**

- 166 A. Pursuant to §10.1-104.6 B3, an assessment shall be performed by the RMP developer or by an
 167 individual authorized by the RMP developer to perform work on their behalf, and shall include
 168 the following in a format established by the department or in a format approved by the board as
 169 equivalent:
 170 1. Information on the location of the management unit including geographic coordinates,
 171 USDA Farm Service Agency tract number(s), if applicable, or the locality tax parcel
 172 identification number(s);
 173 2. Description of the management unit, including acreage and agricultural activity;
 174 3. Contact information for the owner or operator who has requested the RMP, including name,
 175 address, and telephone number;
 176 4. Authorization from the owner or operator for the RMP developer, or his designee, to obtain
 177 copies of any current conservation or water quality plans necessary for the assessment;
 178 5. Copies of nutrient management plans, and soil conservation plans from NRCS, RMPs, and
 179 any other conservation or water quality plan that includes the implementation of BMPs; and
 180 6. Information on the location and an evaluation status of all BMPs, conservation plans, water
 181 quality plans, and other alternative measures applicable to the management unit that are
 182 currently implemented.
 183 B. Identification of management unit BMPs and implementation schedule completed by a RMP
 184 developer Following the evaluation provided in subsection A the RMP developer shall prepare a

(Previous Edits Accepted and Incorporated)

- 185 RMP in a format established by the department or in a format approved by the board as
 186 equivalent that contains the following components:
- 187 1. A review of the assessment to determine the adequacy of existing BMPs,
 188 conservation plans, water quality plans, in meeting the minimum standards set out in
 189 4VAC50-70-40;
 - 190 2. A complete list of BMPs, developed as a result of the assessment required in Subsection A,
 191 that may be utilized to meet the minimum standards set out in 4VAC50-70-40.;
 - 192 3. A complete list of the BMPs that the owner or operator agrees to implement or maintain to
 193 meet the minimum standards set out in 4VAC50-70-40;
 - 194 4. Confirmation of BMPs that achieve the standards set out in 4VAC50-70-40;
 - 195 5. A schedule for the implementation of the BMPs; and
 - 196 6. Inclusion of any current nutrient management plans, soil conservation plans from NRCS, and
 197 any other conservation or water quality plans that include the implementation of BMPs.
- 198 C. Certification
- 199 1. A RMP developer must certify that the RMP is true and correct in their professional
 200 judgment.
 - 201 2. The RMP must be signed by the owner or operator affirming that they:
 - 202 a. Attesting that they are the responsible person to be implementing the RMP and as
 203 such are subject to the compliance provisions of 4VAC50-70-100;
 - 204 b. Agreeing to Will adhere to the RMP; and
 - 205 c. Agreeing to Will notify a RMP developer of any material changes to the
 206 management unit within 30 days that require revision of the plan pursuant to
 207 4VAC50-70-60.
 - 208 d. Will notify the soil and water conservation district and the department of a
 209 complete change in owner or operator of the management unit(s) under a RMP. If a
 210 management unit falls within one or more soil and water conservation districts the
 211 owner or operator shall contact the district with the greatest land area of the
 212 management unit.

4VAC50-70-60. Changes or revisions to a resource management plan

- 215
- 216 A. When the owner or operator who signed a resource management plan. Upon notification of a
 217 change in owner or operator of the management unit with a signed RMP, in accordance with
 218 4VAC50-70-50 C.2.d. where it involves the complete transfer of one or more RMPs and any
 219 Certificate(s) of RMP Implementation previously issued by the department for such RMP(s):
 220 changes, notification by the new owner or operator shall be submitted to the:
- 221 1. The local soil and water conservation district or the department if there is no soil and water
 222 conservation district operating in the locality where the RMP has been established, shall
 223 contact the new owner or operator within 60 days of the new owner or operator assuming
 224 control of the management unit regarding implementation of the RMP and any necessary
 225 revisions. RMP notified in 4VAC50-70-50, shall be reviewed with the new owner or operator
 226 by the local soil and water conservation district or the department, if applicable. Based
 227 upon a the review of the RMP,
 - 228 2. The new owner or operator, following consultation with the soil and water conservation
 229 district if applicable, or the department, may elect to:

(Previous Edits Accepted and Incorporated)

- 230 a. Implement and maintain the provisions of the existing RMP. This requires when
231 the soil and water conservation district when applicable, or the department has
232 determined that no revisions to the resource management plan of the RMP is
233 needed. The new owner or operator must sign the RMP in accordance with
234 4VAC50-70-50 C. If a Certificate of RMP Implementation has been issued to the
235 prior owner or operator, the Certificate must shall be transferred by the
236 department to the new owner or operator. The transferred Certificate shall be
237 valid for the balance of time remaining since it was originally issued by the
238 department.
- 239 b. Contact a RMP developer when the soil and water conservation district or the
240 department when applicable, determines that revision of the RMP is necessary
241 based upon material changes in the operation planned by the new owner or
242 operator. The new owner or operator may Request a RMP developer revise
243 the RMP as necessary to implement a resource management plan, with fulfill
244 BMP requirements pursuant to 4VAC50-70-50, and the administrative
245 requirements of subsection D. revisions to the BMPs included in the RMP. The
246 new owner or operator must sign the RMP in accordance with 4VAC50-70-50 C.
247 If a Certificate of RMP Implementation has been issued to the previous owner or
248 operator the new operator may request a new Certificate of RMP
249 Implementation be issued in accordance with 4VAC50-70-90-80.
- 250 c. Choose not to continue implementing a RMP. where upon the If a Certificate of
251 RMP Implementation for the management unit has been issued, it shall be
252 revoked by the department.
- 253 B. Upon notification by the owner or operator of When there are material changes to the
254 management unit The owner or operator who with a signed a resource management plan in
255 accordance with 4VAC50-70-50 C, that material changes in the RMP create needs for revision,
256 shall notify a the RMP developer shall review the RMP within 30 days.
- 257 1. Material changes to the management unit that may require a revision of the RMP include,
258 but are not limited to:
- 259 a. A conversion from one type of agricultural operation to another;
260 b. A change in the schedule and type of BMPs implemented pursuant to 4VAC50-
261 70-50;
262 c. An increase or decrease in production acreage that materially impacts the
263 management unit's ability to meet the minimum standards set out in 4VAC50-
264 70-40; or
265 d. An increase or decrease in livestock population that materially impacts the
266 management unit's ability to meet the minimum standards set out in 4VAC50-
267 70-40.
- 268 2. A RMP developer will determine if a revisions to of the RMP is required. When the RMP
269 developer determines that revision of the existing RMP is not necessary, the RMP developer
270 shall provide such determination to the requesting owner or operator in writing. When the
271 RMP developer determines that revision of the existing RMP is necessary, the owner or
272 operator may elect to:
- 273 a. Request the RMP developer revise the RMP as necessary to fulfill BMP
274 requirements pursuant to 4VAC50-70-50, and the administrative requirements
275 of subsection D.

(Previous Edits Accepted and Incorporated)

- 276 b. Choose not to continue implementing a RMP where upon the RMP for the
277 management unit shall no longer be valid. The RMP developer shall notify the
278 soil and water conservation district if applicable, and the department, in writing,
279 of this decision by the owner or operator. If a Certificate of RMP
280 Implementation for the management unit has been issued, it shall be revoked
281 by the department.
- 282 ~~C. A resource management plan RMP shall be reviewed and revised as when needed to address~~
283 ~~any the issuance of a new or modified TMDL implementation plan that is issued for the~~
284 ~~Chesapeake Bay or any other local TMDL requirements for the area where the agricultural~~
285 ~~operation is located and where the implementation plan or TMDL assign a load to agricultural~~
286 ~~uses. A presumption of compliance with the RMP will continue under this subsection if:~~
- 287 1. ~~an owner or operator has been issued a Certificate of RMP Implementation for a~~
288 ~~management unit;~~
 - 289 2. ~~the RMP has been revised; and~~
 - 290 3. ~~the owner or operator agree to implement the revised RMP.~~
- 291 C. When a new or modified watershed implementation plan is issued for the Chesapeake Bay or a
292 local approved TMDL which assigns a load to agricultural uses, a RMP having land with waters
293 that drain to such TMDL shall be deemed sufficient when the RMP has been revised to address
294 the new or modified TMDL and the owner or operator agrees to implement the revised RMP.
295 However, this requirement shall not be enacted when an owner or operator has been issued a
296 Certificate of RMP Implementation that has not expired. In this case the owner or operator may
297 continue operation of the RMP without revision due to a TMDL for the lifespan of the Certificate
298 of RMP Implementation so long as the owner or operator is deemed to be fully implementing
299 the RMP.
- 300 D. When an owner or operator with a revised RMP fulfills all requirements pursuant to 4VAC50-70-
301 60 and 4VAC50-70-70, if the department has issued a Certificate of RMP Implementation for the
302 management unit addressed by the revised RMP, the owner or operator may request that the
303 department revoke the existing Certificate of RMP Implementation and issue a new Certificate
304 of RMP Implementation. The department shall evaluate and respond to all requests . At its
305 discretion the department may issue a new Certificate of RMP Implementation when such
306 action is deemed appropriate, or leave the existing Certificate of RMP Implementation in place
307 for the time it shall remain valid.
- 308 E. ~~Upon a r~~Revision of ~~to a the~~ RMP by a RMP developer requires, :
- 309 1. The revised RMP shall be subject to all review requirements set forth within 4VAC50-70-
310 70, and requirements for issuance of a Certificate of RMP Implementation pursuant to
311 4VAC50-70-80.
 - 312 2. If a Certificate of RMP Implementation has been issued by the department and its
313 duration has not expired, such existing Certificate of RMP Implementation shall remain
314 valid for the balance of time remaining since it was originally issued by the department.
 - 315 3. An existing or new owner or operator shall sign a revised RMP pursuant to 4VAC50-70-
316 50 C.
 - 317 4. When a valid Certificate of RMP Implementation has been issued by the department for
318 the management unit, the RMP developer shall provide the department ~~shall be~~
319 ~~notified, in writing, of the revisions with a copy of a revised RMP within 30 days by the~~
320 ~~RMP developer.~~

(Previous Edits Accepted and Incorporated)

321 **F.** When a portion of land that is currently covered under a RMP is being transferred to a new
322 owner or operator that does not have a RMP, the RMP developer is encouraged to contact the
323 new owner or operator concerning the RMP process.

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

- 326
- 327 **A.** Upon completion of a new or revised RMP that fulfills all requirements set forth in 4VAC50-70-
328 50, and 4VAC50-70-60 the owner or operator, or the RMP developer on behalf of the owner or
329 operator, shall submit the RMP to the local soil and water conservation district(s) or the
330 department if the management unit does not fall within the boundaries of a soil and water
331 conservation district. A RMP that is prepared or revised by a soil and water conservation district
332 shall be submitted to the department for review.
- 333 **B.** Each soil and water conservation district shall establish a Technical Review Committee. RMPs
334 received by a soil and water conservation district shall be referred to the TRC for review to
335 ensure the RMP fully meets the minimum standards set forth in 4VAC50-70-40. Within 90 days
336 after submittal of a RMP, the local soil and water conservation district shall notify the owner or
337 operator and the RMP developer in writing if the RMP has been deemed sufficient to address
338 water quality objectives. A RMP that fails to fulfill all requirements set forth in 4VAC50-70-50
339 shall be returned to the RMP developer noting all deficiencies. A revised RMP may be
340 resubmitted once the noted deficiencies have been satisfactorily addressed. Revised submittals
341 shall be reviewed within 45 days of receipt. If within 90 days the applicable timeframes, the
342 local soil and water conservation district fails to provide written notice to the owner or operator
343 and the RMP developer of RMP sufficiency or a listing of RMP deficiencies, the RMP will be
344 deemed sufficient.
- 345 **C.** If a RMP is located within multiple soil and water conservation districts areas, each local TRC will
346 review the portion of the plan applicable to the management unit within their area district,
347 either in consultation or independently of each other. The soil and water conservation districts
348 with the largest amount of acreage under the RMP is responsible for coordinating the review
349 among when portions of the management unit fall in multiple districts, and corresponding with
350 the owner or operator and RMP developer regarding the RMP review.
- 351 **D.** RMPs received by the department where no local soil and water conservation district exists or
352 RMPs prepared by a soil and water conservation district that must fully meet minimum
353 standards set forth in 4VAC50-70-40 shall be reviewed by the department within 90 days of
354 receiving the RMP. Within 90 days after submittal of a RMP, the department shall notify the
355 owner or operator and the RMP developer if the RMP has been deemed sufficient to address
356 water quality objectives. A RMP that fails to fulfill all requirements set forth in 4VAC50-70-50
357 shall be returned to the RMP developer noting all deficiencies. A revised RMP may be
358 resubmitted once the noted deficiencies have been satisfactorily addressed. Revised submittals
359 shall be reviewed within 45 days of receipt. If within 90 days the applicable timeframes, the
360 department fails to provide written notice to the owner or operator and the RMP developer of
361 RMP sufficiency or a listing of RMP deficiencies, the RMP will be deemed sufficient.
- 362 **E.** When a RMP is determined by the review authority to be insufficient to address water quality
363 objectives by either the soil and water conservation district or the department, the department
364 or local soil and water conservation district such review authority shall work with the owner or
365 operator and the RMP developer to revise the RMP.
- 366

(Previous Edits Accepted and Incorporated)

- 367 F. ~~If revisions to a RMP cannot be agreed upon to the satisfaction of the local soil and water~~
368 ~~conservation district, RMP developer and the affected owner or operator, the local soil and~~
369 ~~water conservation district shall document the basis for determining the RMP is insufficient.~~
- 370 F. Where a RMP is deemed sufficient the review authority issuing notification shall include
371 approval of the plan and its implementation pursuant to subsections B and D.
- 372 G. ~~If revisions to a RMP cannot be agreed upon within 90 days to the satisfaction of the~~
373 ~~department, local soil and water conservation district, if applicable, RMP developer and the~~
374 ~~affected owner or operator, the department shall document the basis for determining the RMP~~
375 ~~is insufficient. Such documentation shall be issued to the owner or operator and the RMP~~
376 ~~developer.~~
- 377 G. When an owner or operator is aggrieved by an action, or by inaction of the review authority
378 pursuant to 4VAC50-70-70, the owner or operator shall have a right to appeal in accordance
379 with 4VAC50-70-110.

380

381 **4VAC50-70-80. Issuance of a Certificate of Resource Management Plan Implementation**

382

- 383 A. Prior to issuance of a Certificate of RMP Implementation being issued for a management unit,
384 verification of the full implementation of the RMP shall be completed.
- 385 B. The owner or operator shall request the verification of RMP implementation through the review
386 authority local soil and water conservation district(s) or the department if there is no soil and
387 water conservation district operating in the locality where the agricultural operation is located.
- 388 C. The request for verification shall include the following:
- 389 1. A complete copy of the RMP including any referenced plans; and
390 2. Authorization for review authority local soil and water conservation district or
391 department employees to conduct an onsite inspection of the management unit to
392 ensure the RBMPs are fully implemented.
- 393 D. If, based on onsite verification and a review of referenced plans, by the local soil and water
394 conservation district where the district is the review authority, the RMP is determined to be fully
395 implemented, the local soil and water conservation district board(s) shall affirm such
396 implementation and submit direct the required documentation to the department for action.
397 Upon review the department may issue which may include the issuance of a Certificate of RMP
398 Implementation. to the owner or operator who signed the RMP in accordance with 4VAC50-70-
399 50-C.
- 400 E. Where the department is the review authority there is no soil and water conservation district
401 operating in the locality where the agricultural operation is located, the department shall
402 determine full implementation of the RMP through onsite verification and a review of
403 referenced plans. If, based on the onsite verification and a review of referenced plans, the
404 resource management plan is determined to be fully implemented, the department shall affirm
405 such implementation. The department shall issue a Certificate of RMP Implementation. to the
406 owner or operator.
- 407 F. If the resource management plan has not been fully implemented, the review authority local soil
408 and water conservation district or the department, as applicable, shall provide the owner or
409 operator with written documentation that specifies implementation deficiencies of the RMP
410 within 30 days following the field review of the RMP. The owner or operator may correct the
411 named deficiencies and request verification of RMP implementation at such time as the
412 shortcomings have been addressed.

(Previous Edits Accepted and Incorporated)

- 413 G. A Certificate of RMP Implementation shall be valid for a period of ~~six~~ nine years.
- 414 H. A management unit which has been issued a Certificate of RMP Implementation shall not be
- 415 subject to revision of the RMP when the issuance of a new or modified watershed
- 416 implementation plan for the Chesapeake Bay or other local approved TMDL impacts any portion
- 417 of the management unit during the lifespan of the Certificate of RMP Implementation so long as
- 418 the owner or operator is deemed to be fully implementing the RMP.
- 419 I. Upon the expiration of the Certificate of RMP Implementation, a new RMP may be prepared by
- 420 a plan developer for the management unit upon request by the owner or operator. The RMP
- 421 must conform with all existing TMDL implementation plans to include the Chesapeake Bay and
- 422 any local approved TMDL, which assign a load to agricultural uses and impact any portion of the
- 423 management unit. The plan developer shall ensure the new RMP complies with requirements
- 424 set forth within 4VAC50-70-40.

4VAC50-70-90. Inspections

- 426
- 427
- 428 A. Each owner or operator that has been issued a Certificate of RMP Implementation for a
- 429 management unit shall be subject to periodic onsite inspections by the review authority ~~soil and~~
- 430 ~~water conservation district(s) and or by the department when the management unit or any~~
- 431 ~~portion of the management unit does not fall within a soil and water conservation district, or~~
- 432 ~~when the department is not the review authority, but deems appropriate, to ensure the~~
- 433 ~~continued implementation, and maintenance of, and compliance with the RMP.~~
- 434 B. Onsite inspections shall occur no less than once every three years on lands where an active
- 435 Certificate of RMP Implementation has been issued.
- 436 C. During an inspection, an owner or operator shall provide any documents needed to verify the
- 437 implementation of the RMP and any other referenced plans as applicable.
- 438 D. Upon the completion of the inspection, an inspection report shall be completed in a format
- 439 provided by the department, to document the implementation of the RMP on the management
- 440 unit. A copy of the inspection report shall be provided to the department with a copy to the
- 441 owner or operator ~~and the department, when appropriate~~ inspections are performed by a soil
- 442 and water conservation district, within ~~five~~ 10 business days following the date of inspection.
- 443 The inspection report shall include:
- 444 1. A list of all creditable annual BMPs ~~and any alternative measures~~ implemented,
- 445 ~~operated and maintained; and~~
- 446 2. Any identified deficiencies that may ~~including~~ any components of the RMP that have
- 447 not been satisfactorily implemented, ~~or~~ components that need to be renewed, and any
- 448 changes to the management unit that may need to be addressed through revision of the
- 449 RMP.
- 450 E. If based upon the inspection there are deficiencies noted, the department shall proceed
- 451 pursuant to 4VAC50-70-100.

4VAC50-70-100. Compliance.

- 452
- 453
- 454
- 455 A. If there are deficiencies reported to the department based on ~~noted during an inspections~~
- 456 ~~conducted in accordance with 4VAC50-70-90, and following review of such deficiencies the~~
- 457 ~~director~~ department shall provide a written notice to the owner or operator within 30 days of

(Previous Edits Accepted and Incorporated)

- 458 receipt of the inspection report. ~~being issued.~~ The written notice shall include a list of the noted
 459 deficiencies ~~that needing to be addressed to meet full implementation of the RMP.~~
- 460 B. Within ~~60~~ 90 days of the written notice being ~~provided~~ issued to the owner or operator, a
 461 corrective action agreement, which may include revisions to the RMP, shall be developed by a
 462 RMP developer in consultation with the owner or operator, signed by the owner or operator,
 463 and submitted to the department for consideration ~~approval.~~ ~~The corrective action agreement,~~
 464 ~~and any revisions to the RMP, shall be signed by the owner or operator and submitted to the~~
 465 ~~department for approval.~~ The corrective action agreement shall include an implementation
 466 schedule to address the deficiencies found during the inspection. ~~that is acceptable to both the~~
 467 ~~department and the owner or operator.~~ The department shall review the corrective action
 468 agreement including any revisions to the RMP within 30 days following receipt. If the corrective
 469 action agreement, including any revisions to the RMP, is determined by the department to be
 470 reasonable and satisfactory, the department shall convey such determination to the owner or
 471 operator. ~~no further action shall be taken by the department.~~
- 472 C. If the department determines that the corrective action agreement, including any revisions to
 473 the RMP, does not satisfactorily address deficiencies documented from an inspection conducted
 474 pursuant to 4VAC50-70-90, the department shall document such shortcomings in writing to the
 475 owner or operator within 30 days following receipt of the corrective action agreement. A
 476 revised corrective action agreement may be submitted once the noted deficiencies have been
 477 satisfactorily addressed.
- 478 D. If the department and the owner or operator are unable to concur on a corrective action
 479 agreement within 90 days ~~three months~~ of the submission of the initial corrective action
 480 agreement to the department, the department shall revoke the owner's or operator's Certificate
 481 of RMP Implementation.
- 482 E. If it is determined by the department that an owner or operator has failed to fully implement
 483 the agreed upon corrective action agreement through ~~an~~ re-inspection ~~conducted in accordance~~
 484 ~~with 4VAC50-70-90,~~ the department shall revoke the owner's or operator's Certificate of RMP
 485 Implementation for the corrective action agreement ~~specific management unit.~~
- 486 F. At any time, the owner or operator may provide written notice to the ~~department board~~
 487 requesting that the Certificate of RMP Implementation be revoked.

4VAC50-70-110. Appeals

- 488
- 489
- 490
- 491 A. An owner or operator that has been aggrieved by any action or ~~inaction of a the local~~ soil and
 492 water conservation district, ~~taken without a formal hearing, or by the inaction of the local soil~~
 493 ~~and water conservation district(s),~~ shall have a right to appeal to the department in accordance
 494 with §2.2-4019 through §2.2-4024 of the Code of Virginia.
- 495 B. An owner or operator that has been aggrieved by any action ~~or inaction~~ of the department
 496 ~~taken without a formal hearing, or by the inaction of the department,~~ shall have a right to
 497 appeal to the board in accordance with §2.2-4019 though §2.2-4024 of the Code of Virginia.
- 498 C. Revocation of the Certificate of RMP Implementation, issued pursuant to 4VAC50-70-80, shall be
 499 suspended pending any appeals.
- 500 D. A soil and water conservation district that has been aggrieved by any action or inaction of the
 501 department, shall have a right to appeal to the board in accordance with §2.2-4019 though §2.2-
 502 4024 of the Code of Virginia.
- 503

(Previous Edits Accepted and Incorporated)

504 **4VAC50-70-120. Reporting requirements**

505

506 A. Soil and water conservation districts shall gather data on BMPs during the RMP development
507 and implementation process on an ongoing basis. BMP data collection and reporting shall
508 occur:

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

513 2. Upon changes or revisions to a resource management plan specified within 4VAC50-70-
514 60;

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

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

517 5. Upon any other opportunities when verification of BMP implementation becomes
518 available.

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

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

526 D. Any personal information collected pursuant to § 10.1-104.5 shall be exempt from the Virginia
527 Freedom of Information Act (§ 2.2-3700 et seq.) and fully comply with all provisions of § 10.1-
528 104.5.

529 E. The department shall make use of RMP BMP data for purposes that include progress reporting
530 for Chesapeake Bay or other local approved TMDLs; and for other reports required of the
531 department or generated by the agency.

532

533 **4VAC50-70-130. Review of duties performed by soil and water conservation districts**

534

535 A. The department shall periodically conduct a comprehensive review of the RMP duties
536 performed by each soil and water conservation district to evaluate whether requirements set
537 forth by this chapter have been satisfactorily fulfilled. The department shall develop a schedule
538 for conducting periodic reviews and evaluations, but may impose more frequent, partial, or
539 comprehensive reviews with cause. Such reviews where applicable shall be coordinated with
540 those being implemented by agency staff for other purposes which may include annual spot
541 checks of BMPs implemented by districts through the Virginia Agricultural BMP Cost Share
542 Program.

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

548 C. When the department determines:

(Previous Edits Accepted and Incorporated)

- 549 1. The deficiencies are due to the district's failure to satisfactorily perform the required
550 duties with the resources at its disposal, the department shall provide close oversight,
551 guidance, and training as appropriate to enable the district to fully perform the duties
552 required by this chapter. If after such actions there remains one or more deficiencies
553 that cannot be resolved to the satisfaction of the department, the department may
554 delay or withhold funding under its authority and control, from the district that is not
555 satisfactorily performing its RMP duties. Such duties may be assigned to another soil
556 and water conservation district. Funds withheld from the district with deficiencies may
557 be directed to the district that is performing the additional RMP duties.
- 558 2. The deficiencies are due to a work demand generated by the duties required by this
559 chapter that exceed the district's existing resources, the department shall endeavor to
560 assist the district in the performance of its duties and in resolving a solution to the
561 shortage of resources.
562