

2 VIRGINIA SOIL AND WATER CONSERVATION BOARD

3 Establishment of new Resource Management Plan Regulations (4VAC50-70-10 et seq.)

4  
5 CHAPTER 70

6 RESOURCE MANAGEMENT PLANS

7 **4VAC50-70-10. Definitions.**

8 The following words and terms when used in this chapter shall have the following meanings  
9 unless the context clearly indicates otherwise.

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 identified  
21 as the appropriate unit for RMP implementation. The management unit may consist of multiple  
22 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 [ "Perennial stream" means water bodies depicted as solid blue lines on the most recent  
31 U.S. Geological Survey 7½ minute topographic quadrangle map (scale 1:24,000); or a body of  
32 water that flows in a natural or man-made channel year-round during a year of normal  
33 precipitation as a result of groundwater discharge or surface runoff. Such stream exhibits the  
34 typical biological, hydrological, and physical characteristics commonly associated with the  
35 continuous conveyance of water. However, determinations based on site-specific characteristics  
36 shall be made or confirmed by the RMP developer. ]

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

39 "Review authority" means a soil and water conservation district or the department where [ ~~no~~  
40 ~~soil and water conservation district exists applicable~~ ] that is authorized under this chapter to  
41 determine the adequacy of a resource management plan and perform other duties specified by  
42 this chapter.

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

45 "Soil and water conservation district" or "district" means a political subdivision of the  
46 Commonwealth organized in accordance with the provisions of Chapter 5 (§ 10.1-500 et seq.) of  
47 Title 10.1 of the Code of Virginia.

48 "Technical Review Committee" or "TRC" means a committee established by a soil and water  
49 conservation district board to review RMPs and provide recommendations to the soil and water  
50 conservation district board regarding RMPs. A TRC may include, but not be limited to, the  
51 following members: soil and water conservation district directors, associates, and personnel;  
52 Virginia Cooperative Extension personnel; department nutrient management specialists; and  
53 such other technical resources available to the district.

54 "Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a  
55 pollutant that a waterbody can receive and still meet water quality standards and an allocation of  
56 that amount to the pollutant's sources. A TMDL includes wasteload allocations for point source  
57 discharges and load allocations for nonpoint sources or natural background, or both, and must  
58 include a margin of safety and account for seasonal variations.

59

60 **4VAC50-70-20. Purpose and authority.**

61 Pursuant to Article 1.1 (§ 10.1-104.7 et seq.) of Title 10.1 of the Code of Virginia, this  
62 chapter is adopted to clarify and specify the criteria that must be included in a resource  
63 management plan and the processes by which a Certificate of RMP Implementation is issued  
64 and maintained. Except as provided for in 4VAC50-70-30, agricultural landowners or operators  
65 who fully implement and maintain the applicable components of their resource management  
66 plans, in accordance with the criteria for such plans set out in §10.1-104.8 of the Code of  
67 Virginia and any requirements of this chapter, shall be deemed to be in full compliance with any  
68 load allocation contained in a TMDL established under § 303(d) of the federal Clean Water Act  
69 addressing benthic, bacteria, nutrient, or sediment impairments; any requirements of the  
70 Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and applicable state water  
71 quality requirements for nutrients and sediment.

72

73 **4VAC50-70-30. Applicability of other laws and regulations.**

74 Nothing in this chapter shall be construed as limiting the applicability [or preventing or  
75 precluding the enforcement] of other laws, regulations, or permits [including, but not limited to,  
76 a Virginia Pollutant Discharge Elimination System Permit, a Virginia Pollution Abatement Permit,  
77 a nutrient management plan otherwise required by law, any requirements of the Chesapeake  
78 Bay Preservation Act, and any requirements of the Agricultural Stewardship Act] .

79

80 **4VAC50-70-40. Minimum standards of a resource management plan.**

81 A. Pursuant to Article 1.1 (§ 10.1-104.7 et seq.) of Title 10.1 of the Code of Virginia, a  
82 resource management plan requires the implementation of BMPs sufficient to implement the  
83 Virginia Chesapeake Bay TMDL Watershed Implementation Plan and other local TMDL water  
84 quality requirements of the Commonwealth. Pursuant to subdivision B 5 of § 10.1-104.8 of the  
85 Code of Virginia, [a an] RMP shall address all of the following BMP requirements when  
86 applicable to the management unit and needed based upon an on-farm assessment of the  
87 following land uses:

88

1. For all cropland or specialty crops:

89

a. A nutrient management plan that meets the specifications of the Nutrient  
Management Training and Certification Regulations (4VAC5-15);

90

91 b. A forest or grass buffer between cropland and perennial streams shall be  
92 consistent with NRCS standards and specifications, except no buffer shall be less  
93 than a minimum width of 35 feet as measured from the top of the channel bank to the  
94 edge of the field to meet water quality objectives;  
95 c. A soil conservation plan that achieves a maximum soil loss rate to "T" as defined  
96 by NRCS and such BMPs necessary to address gross erosion when it is present as  
97 gullies or other severely eroding conditions; and  
98 d. Cover crops, when needed to address nutrient management [ and or ] soil loss  
99 requirements, [ or both, ] that provide for reportable practices which meet best  
100 management practice specifications as determined by NRCS or the Virginia  
101 Agricultural Best Management Practices Cost-Share Program.

102 2. For all hayland:

103 a. A nutrient management plan that meets the specifications of the Nutrient  
104 Management Training and Certification Regulations (4VAC5-15);  
105 b. A forest or grass buffer between cropland and perennial streams shall be  
106 consistent with NRCS standards and specifications, except no buffer shall be less  
107 than a minimum width of 35 feet as measured from the top of the channel bank to the  
108 edge of the field to meet water quality objectives; and  
109 c. A soil conservation plan that achieves a maximum soil loss rate to "T" as defined  
110 by NRCS and such BMPs necessary to address gross erosion when it is present as  
111 gullies or other severely eroding conditions.

112 3. For all pasture:

113 a. A nutrient management plan that meets the specifications of the Nutrient  
114 Management Training and Certification Regulations (4VAC5-15);  
115 b. A pasture management plan or soil conservation plan that achieves a maximum  
116 soil loss rate of "T" as defined by NRCS and such BMPs necessary to address gross  
117 erosion when it is present as gullies or other severely eroding conditions; and  
118 c. A system that limits or prevents livestock access to perennial streams requires  
119 that:

120 (1) Any fencing or exclusion system provides year-round livestock restriction to  
121 perennial streams; [ and ]  
122 (2) [ A forest or grass buffer between the exclusion system and a perennial stream  
123 shall be consistent with NRCS standards and specifications, except no buffer shall  
124 be less than a minimum width of 35 feet as measured from the top of the channel  
125 bank to the exclusion system to meet water quality objectives; and  
126 (3) ] Provisions that are made for [ limited ] access through stream crossings and  
127 livestock watering systems are designed to NRCS standards and specifications and  
128 [ are such limited access is ] determined [ to be ] necessary by the RMP developer.

129 B. Other BMPs approved by the [ department board ] may be applied to achieve the  
130 minimum standards of this section [ beyond those already once they have been ] identified by  
131 NRCS or [ included ] within the Virginia Agricultural Best Management Practices Cost-Share  
132 Program. [ Additionally, BMPs identified in the Chesapeake Bay Watershed Model or the  
133 Chesapeake Bay TMDL Watershed Implementation Plan may be utilized where found to  
134 achieve the minimum standards of this section. The department shall annually evaluate such  
135 BMPs through decision support tools to determine whether they achieve the minimum standards  
136 and are authorized for use in the RMP program as a component of an RMP. ]

137 C. The department shall evaluate the minimum standards of this section [ no later than the  
138 end of 2017 as part of the Chesapeake Bay mid-point assessment ] to determine their adequacy  
139 [ when revisions occur to a load allocation in meeting, load allocations ] contained in [ a TMDL  
140 established revisions to existing TMDL(s) or established in new TMDL(s) developed ] under  
141 § 303(d) of the federal Clean Water Act [ addressing to address ] benthic, bacteria, nutrient, or  
142 sediment impairments; requirements of the Virginia Chesapeake Bay TMDL Watershed  
143 Implementation Plan; and applicable state water quality requirements for nutrients and  
144 sediment. Changes to the minimum standards by the board may result in the use of BMPs  
145 identified in the Chesapeake Bay Watershed Model, identified in the Virginia Chesapeake Bay  
146 TMDL Watershed Implementation Plan, or approved by the [ department board ].

147

148 **4VAC50-70-50. Components of a resource management plan.**

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

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

155 2. Description of the management unit, including acreage, water features,  
156 environmentally sensitive features, erosion issues, and agricultural activity;

157 3. Contact information for the owner or operator who has requested the RMP, including  
158 name, address, and telephone number;

159 4. Authorization from the owner or operator for the RMP developer, or his designee, for  
160 right of entry and access to property specified within the management unit and  
161 authorization to obtain copies of any conservation or water quality plans necessary for  
162 the assessment;

163 5. Copies of nutrient management plans, soil conservation plans from NRCS, RMPs,  
164 and any other conservation or water quality plan that includes the implementation of  
165 BMPs; and

166 6. Information on the location and status of all BMPs and other alternative measures  
167 applicable to the management unit that are currently implemented.

168 B. Following the assessment provided in subsection A of this section, the RMP developer  
169 shall prepare the RMP in a format established by the department or in a format approved by the  
170 board as equivalent that contains the following components:

171 1. A determination of the adequacy of existing BMPs, conservation plans, and water  
172 quality plans in meeting the minimum standards set out in 4VAC50-70-40;

173 2. A complete list of BMPs, developed as a result of the assessment required in  
174 subsection A of this section, that may be utilized to meet the minimum standards set out  
175 in 4VAC50-70-40;

176 3. A complete list of the BMPs that the owner or operator agrees to implement or  
177 maintain to meet the minimum standards set out in 4VAC50-70-40;

178 4. A confirmation of BMPs that achieve the minimum standards set out in 4VAC50-70-  
179 40;

180 5. A schedule for the implementation of the BMPs;

181 6. An inclusion of any current nutrient management plans, soil conservation plans, and  
182 any other conservation or water quality plans that include the implementation of BMPs;  
183 and

184 7. Other information collected pursuant to subsection A of this section.

185 C. Certification.

186 1. The RMP developer must certify that the RMP is true and correct in his professional  
187 judgment.

188 2. The RMP must be signed by the owner or operator affirming that he:

189 a. Is the responsible individual to be implementing the RMP [ in its entirety ] ;

190 b. Shall adhere to the RMP [ components necessary to meet the minimum standards  
191 set out in 4VAC50-70-40 ] ;

192 c. Shall allow the review authority to conduct inspections of properties within the  
193 management unit as needed to ensure the adequacy of the RMP in accordance with  
194 4VAC50-70-70;

195 d. Shall notify the RMP developer within 60 days of potential material changes to the  
196 management unit that may require revision of the plan pursuant to 4VAC50-70-60;  
197 and

198 e. Shall notify the review authority of a complete change in owner or operator of the  
199 management unit or units under the RMP. If a management unit falls within one or  
200 more soil and water conservation districts, the owner or operator shall contact the  
201 district containing the greatest land area of the management unit.

202

203 **4VAC50-70-60. Revisions to a resource management plan.**

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

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

211 2. Following consultation with the review authority, the new owner or operator may elect  
212 to:

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

219 b. Contact the RMP developer when changes in the operation are planned by the  
220 new owner or operator or are otherwise required by this chapter. The new owner or  
221 operator may request the RMP developer to revise the RMP as necessary to fulfill  
222 BMP requirements pursuant to 4VAC50-70-50 and the administrative requirements  
223 of subsection [ D F ] of this section; or

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

227 B. Upon notification of the RMP developer by the owner or operator of the management unit  
228 with a signed RMP, in accordance with 4VAC50-70-50 C, that changes in the management unit  
229 or implementation of the RMP may create needs for revision, the RMP developer shall review

230 the RMP within 30 days to determine if material changes to the management unit require a  
231 revision of the RMP in accordance with the following:

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

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

235 b. A change in the schedule and type of BMPs implemented pursuant to 4VAC50-70-  
236 50;

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

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

241 or

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

244 2. The RMP developer will determine if revision of the RMP is required. When the RMP  
245 developer determines that revision of the existing RMP is not necessary, the RMP  
246 developer shall provide such determination to the requesting owner or operator in  
247 writing. Such documentation shall be available upon inspection by the review authority.  
248 When the RMP developer determines that revision of the existing RMP is necessary, the  
249 owner or operator may elect to:

250 a. Request the RMP developer to revise the RMP as necessary to fulfill RMP  
251 requirements pursuant to 4VAC50-70-50 and the administrative requirements of  
252 subsection [D F] of this section; or

253 b. Choose not to continue implementing [a an] RMP whereupon the RMP for the  
254 management unit shall no longer be valid. The RMP developer shall notify the review  
255 authority and the department in writing of this decision by the owner or operator. If a  
256 Certificate of RMP Implementation for the management unit has been issued, it shall  
257 be revoked by the department.

258 C. When an owner or operator does not hold a Certificate of RMP Implementation for an  
259 RMP that has been approved by the review authority, revision of the RMP is required when a  
260 new or modified watershed implementation plan is issued for the Chesapeake Bay or a new or  
261 modified local approved TMDL is issued that assigns a load to agricultural uses. An RMP  
262 covering land with waters that drain to such TMDL shall be deemed sufficient when the RMP  
263 has been revised to address the new or modified TMDL and the owner or operator agrees to  
264 implement the revised RMP, except as provided in subsection D of this section.

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

271 E. When an owner or operator with a revised RMP fulfills all requirements pursuant to this  
272 section and 4VAC50-70-70, and the owner or operator holds a Certificate of RMP  
273 Implementation that has not expired for the management unit addressed by the revised RMP,  
274 the owner or operator may request that the department revoke the existing Certificate of RMP  
275 Implementation and issue a new Certificate of RMP Implementation. The department shall  
276 evaluate and respond to all requests. Upon verification that all requirements have been  
277 satisfied, the department shall issue a new Certificate of RMP Implementation in a timely

278 manner and ensure that no owner or operator is found out of compliance with any requirements  
279 of this chapter due to any delays in the department's issuance of a new Certificate of RMP  
280 Implementation pursuant to this subsection even if the original certificate expires during this  
281 issuance time period.

282 F. Revision of an RMP by an RMP developer requires:

283 1. If a Certificate of RMP Implementation has not been issued, the revised RMP shall be  
284 provided to the review authority and shall be subject to all review requirements set out in  
285 4VAC50-70-70 and shall be subject to the requirements for issuance of a Certificate of  
286 RMP Implementation pursuant to 4VAC50-70-80.

287 2. If a Certificate of RMP Implementation has been issued by the department and its  
288 duration has not expired, such existing Certificate of RMP Implementation shall remain  
289 valid for the balance of time remaining since it was originally issued by the department or  
290 a new Certificate of RMP Implementation may be issued where appropriate in  
291 accordance with subsection E of this section.

292 3. An existing or new owner or operator shall sign a revised RMP pursuant to 4VAC50-  
293 70-50 C.

294 4. When a valid Certificate of RMP Implementation has been issued by the department  
295 for the management unit, the RMP developer shall provide the review authority and the  
296 department with a copy of a revised RMP within 30 days of completion of the revised  
297 plan.

298

299 **4VAC50-70-70. Review of a resource management plan.**

300 A. Upon completion of a new or revised RMP in accordance with 4VAC50-70-50 and  
301 4VAC50-70-60, the owner or operator or the RMP developer on behalf of the owner or operator,  
302 shall submit the RMP to the review authority. [ If the RMP developer is a district employee or  
303 district board member of the district that is the designated review authority, the department shall  
304 serve as the review authority for that RMP. ]

305 B. Each soil and water conservation district shall establish a Technical Review Committee  
306 (TRC). RMPs received by a soil and water conservation district shall be referred to the TRC for  
307 review to ensure the RMP fully meets the minimum standards set forth in 4VAC50-70-40 and  
308 the components specified in 4VAC50-70-50. Within 90 days of receipt of the RMP, the soil and  
309 water conservation district shall notify the owner or operator and the RMP developer in writing if  
310 the RMP fulfills such requirements. An RMP that fails to fulfill such requirements shall be  
311 returned to the RMP developer noting all deficiencies. A revised RMP may be resubmitted once  
312 the noted deficiencies have been satisfactorily addressed. Revised submittals shall be reviewed  
313 and a response regarding RMP sufficiency or a listing of RMP deficiencies provided within 45  
314 days of receipt.

315 C. If an RMP is located within multiple soil and water conservation districts, each TRC will  
316 review the portion of the plan applicable to the management unit within their district, either in  
317 consultation or independently of each other. The soil and water conservation district with the  
318 largest amount of acreage under the RMP has lead responsibility for (i) coordinating the review  
319 among multiple districts; (ii) resolving disputes; (iii) corresponding with the owner or operator  
320 and RMP developer regarding the RMP review; and (iv) when appropriate, submitting required  
321 documentation to the department to support issuance of a Certificate of RMP Implementation.

322 D. RMPs received by the department where no local soil and water conservation district  
323 exists [ , or where the RMP developer is a district employee or district board member of the  
324 district that would have been the designated review authority, ] must fully meet minimum  
325 standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50 and shall

326 be reviewed by the department. Within 90 days of receipt of the RMP, the department shall  
327 notify the owner or operator and the RMP developer if the RMP fulfills such requirements. An  
328 RMP that fails to fulfill such requirements shall be returned to the RMP developer noting all  
329 deficiencies. A revised RMP may be resubmitted once the noted deficiencies have been  
330 satisfactorily addressed. Revised submittals shall be reviewed and a response regarding RMP  
331 sufficiency or a listing of RMP deficiencies provided within 45 days of receipt.

332 E. When an RMP is determined by the review authority to be insufficient to meet minimum  
333 standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50, such  
334 review authority shall work with the owner or operator and the RMP developer to revise the  
335 RMP.

336 F. Where an RMP is deemed sufficient, the notification issued to the owner or operator and  
337 the RMP developer by the review authority shall include approval of the plan and its  
338 implementation in accordance with subsection B or D of this section, whichever is applicable.

339 G. When an owner or operator is aggrieved by an action of the review authority pursuant to  
340 this section, the owner or operator shall have a right to appeal in accordance with 4VAC50-70-  
341 110.

342

#### 343 **4VAC50-70-80. Issuance of a Certificate of Resource Management Plan Implementation.**

344 A. Prior to issuance of a Certificate of RMP Implementation for a management unit,  
345 confirmation shall be made by the RMP developer that [ the plan meets the requirements of  
346 subsections B and C of 4VAC50-70-50 and that ] no revision of the RMP is required in  
347 accordance with 4VAC50-70-60 and as such is adequate, and verification of the full  
348 implementation of the RMP shall be completed. The owner or operator shall request the  
349 verification of RMP implementation by the review authority.

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

- 352 1. A complete copy of the RMP including any referenced plans;  
353 2. Authorization for review authority employees to conduct an onsite inspection of the  
354 management unit to ensure the RMP is fully implemented; and  
355 3. Authorization upon the issuance of a Certificate of RMP Implementation for review  
356 authority employees and the department to conduct onsite inspections of the  
357 management unit to ensure the continued implementation of, maintenance of, and  
358 compliance with the [ current ] RMP in accordance with 4VAC50-70-90.

359 C. If based on onsite verification and a review of referenced plans by the local soil and water  
360 conservation district where the district is the review authority the RMP is determined to be  
361 adequate and fully implemented in accordance with subsection A of this section, the soil and  
362 water conservation district board shall affirm such adequacy and implementation and submit the  
363 required documentation to the department for action. Upon receiving such documentation  
364 supporting that the plan is adequate and has been fully implemented, the department shall issue  
365 a Certificate of RMP Implementation.

366 D. Where the department is the review authority, the department shall determine adequacy  
367 and full implementation of the RMP in accordance with subsection A of this section through  
368 onsite verification and a review of referenced plans. If based on the onsite verification and a  
369 review of referenced plans, the RMP is determined to be adequate and fully implemented, the  
370 department shall affirm such implementation by issuing a Certificate of RMP Implementation.

371 E. If the resource management plan is not adequate or has not been fully implemented, the  
372 review authority shall provide the owner or operator with written documentation that specifies  
373 the deficiencies of the RMP within 30 days following the field review of the RMP. The owner or



374 operator may correct the named deficiencies and request verification of RMP adequacy or  
375 implementation at such time as the shortcomings have been addressed.

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

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

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

389 I. The department shall maintain a public registry on the agency's website of all current  
390 Certificates of RMP Implementation in accordance with the provisions of subsection E of § 10.1-  
391 104.7 of the Code of Virginia.

392

#### 393 **4VAC50-70-90. Inspections.**

394 A. Each management unit that has been issued a Certificate of RMP Implementation shall  
395 be subject to periodic onsite inspections to be performed by the review authority. In addition the  
396 department, when it is not the review authority but deems it appropriate, can conduct  
397 inspections to ensure the continued implementation of, maintenance of, and compliance with  
398 the RMP [ components necessary to meet the minimum standards set out in 4VAC50-70-40 ] .

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

403 C. As part of an inspection, an owner or operator shall provide any documents needed to  
404 verify the implementation of the RMP [ components necessary to meet the minimum standards  
405 set out in 4VAC50-70-40 ] , any documents pertaining to revision of the RMP when applicable,  
406 and any other referenced plans as applicable.

407 D. Upon the completion of the inspection, an inspection report shall be completed in a  
408 format provided by the department to document the implementation of the [ current ] RMP on  
409 the management unit. A copy of the inspection report shall be provided to the department within  
410 10 business days following the date of inspection with a copy to the owner or operator when  
411 inspections are performed by a soil and water conservation district. The inspection report shall  
412 include:

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

415 2. Any identified deficiencies that may include any components of the RMP [ necessary  
416 to meet the minimum standards set out in 4VAC50-70-40 ] that have not been  
417 satisfactorily implemented, components that need to be renewed, and any changes to  
418 the management unit that may need to be addressed through revision of the RMP.

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

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

424

425 **4VAC50-70-100. Compliance.**

426 A. If deficiencies are identified during an inspection conducted in accordance with 4VAC50-  
427 70-90, following review of such deficiencies the department shall provide a written notice to the  
428 owner or operator within 30 days of receipt of the inspection report. The written notice shall  
429 include a list of the noted deficiencies that need to be addressed to meet full implementation of  
430 the RMP.

431 B. Within 90 days of the written notice being issued to the owner or operator, a corrective  
432 action agreement in a format provided by the department, that may include revisions to the  
433 RMP, shall be developed by the RMP developer in consultation with the owner or operator,  
434 signed by the owner or operator, and submitted to the department for consideration. The  
435 corrective action agreement shall include an implementation schedule to correct the deficiencies  
436 found during the inspection. The department shall review the corrective action agreement  
437 including any revisions to the RMP within 30 days following receipt. The department shall  
438 consult with the review authority. If the corrective action agreement, including any revisions to  
439 the RMP, is determined by the department to be reasonable and satisfactory, the department  
440 shall convey such determination to the owner or operator in writing within 30 days following  
441 receipt.

442 C. If the department determines that the corrective action agreement, including any  
443 revisions to the RMP, does not satisfactorily address deficiencies documented from an  
444 inspection conducted pursuant to 4VAC50-70-90, the department shall document such  
445 deficiencies in writing to the owner or operator within 30 days following receipt of the corrective  
446 action agreement. A revised corrective action agreement may be submitted once the noted  
447 deficiencies have been satisfactorily addressed.

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

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

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

460

461 **4VAC50-70-110. Appeals.**

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

468 B. Any party, including but not limited to a district, an owner or operator, or [ a an ] RMP  
469 developer aggrieved by and claiming the unlawfulness of a case decision of the department  
470 shall have a right to appeal to the board in accordance with the Administrative Process Act (§  
471 2.2-4000 et seq. of the Code of Virginia). In making its decision on an appeal, the board will hold  
472 an informal fact finding proceeding in accordance with § 2.2-4019 of the Code of Virginia.

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

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

479

#### 480 **4VAC50-70-120. Reporting.**

481 A. BMP data collection and reporting shall occur:

- 482 1. When [ a RMP assessment is conducted by a soil and water conservation district or  
483 when ] data is made available to [ a district the review authority ] by an owner or operator  
484 following an assessment performed by [ a an ] RMP developer or individual authorized  
485 by them to perform an assessment pursuant to 4VAC50-70-50;
- 486 2. Upon changes or revisions to [ a an ] RMP pursuant to 4VAC50-70-60;
- 487 3. Upon verification of the full implementation of the RMP as required by 4VAC50-70-80;
- 488 4. When inspections are conducted pursuant to 4VAC50-70-90; and
- 489 5. Upon any other opportunities when verification of BMP implementation becomes  
490 available.

491 B. BMP data collected in accordance with subsection A of this section shall be entered in  
492 the Virginia Agricultural BMP Tracking Program or any subsequent automated tracking systems  
493 made available to soil and water conservation districts by the department.

494 C. BMP data entry by soil and water conservation districts shall occur throughout the year;  
495 however, the annual reporting period shall begin July 1 of one year and end June 30 of the  
496 following year. Districts shall ensure all collected data is fully entered in the data collection  
497 system by July 31 following the close of the annual reporting period.

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

502 E. The department, in accordance with subsection D of this section, shall make use of RMP  
503 BMP data for purposes that include progress reporting for the Chesapeake Bay TMDL  
504 watershed implementation plan; other local approved TMDLs; inclusion in the report required by  
505 § 2.2-220 of the Code of Virginia; and other reports required of the department or generated by  
506 the agency.

507

#### 508 **4VAC50-70-130. Review of duties performed by soil and water conservation districts.**

509 A. The department shall periodically conduct a comprehensive review of the RMP duties  
510 performed by each soil and water conservation district to evaluate whether requirements set  
511 forth by this chapter have been satisfactorily fulfilled. The department shall develop a schedule  
512 for conducting periodic reviews and evaluations. Each district shall receive a comprehensive  
513 review at least once every five years; however, the department may impose more frequent,  
514 partial, or comprehensive reviews with cause. Such reviews where applicable shall be

515 coordinated with those being implemented by agency staff for other purposes that may include  
516 annual spot checks of BMPs implemented by districts through the Virginia Agricultural BMP  
517 Cost Share Program.

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

523 C. When the department determines:

524 1. The deficiencies are due to the district's failure to satisfactorily perform the required  
525 duties with the resources at its disposal, the department shall provide close oversight,  
526 guidance, and training as appropriate to enable the district to fully perform the duties  
527 required by this chapter. If after such actions there remains one or more deficiencies that  
528 cannot be resolved to the satisfaction of the department, the department may delay or  
529 withhold [ RMP allocated ] funding under its authority and control from the district that is  
530 not satisfactorily performing its RMP duties. Such duties may be assigned to another soil  
531 and water conservation district. Funds withheld from the district with deficiencies may be  
532 directed to the district that is performing the additional RMP duties.

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

537

538 **4VAC50-70-140. RMP developer qualifications and certification.**

539 A. An individual shall be qualified to serve as an RMP developer if the individual:

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

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

544 a. Agricultural conservation planning;

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

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

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

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

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

555 g. Site vulnerability assessment tools; and

556 h. Other proficiencies and understandings identified by the department in  
557 consultation with the board.

558 B. In a format established by the department, such individual shall submit documentation to  
559 the department for verification that the requirements of subsection A of this section have been  
560 met.

561 1. Upon receipt, the department shall review the documentation and issue its notification  
562 within 60 days. During its review the department shall determine:

563 a. If all required documentation is complete. If incomplete the applicant shall be  
564 notified.

565 b. If all requirements have been satisfied. If deficiencies exist the applicant shall be  
566 notified.

567 2. Applicants with deficiencies may submit additional documentation in support of their  
568 request to be certified. The department shall review the documentation provided within  
569 30 days to determine its sufficiency.

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

572 C. In the event that an individual's proficiency skills or the quality of technical work no longer  
573 meet the criteria for RMP developer certification, the individual's certification may be revoked by  
574 the department following a seven-day advance notification of the pending action and the holding  
575 of an informal fact finding proceeding held in accordance with §2.2-4019 of the Code of  
576 Virginia. The department shall consider any action by NRCS to decertify a certified conservation  
577 planner. An RMP developer may appeal a decision of the department to the board in  
578 accordance with 4VAC50-70-110.

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

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

585 F. The department shall maintain a public registry on the agency's website of all individuals  
586 issued [a an] RMP developer certificate and shall note any subsequent revocations or other  
587 changes to the status of RMP developers.

588

589 **4VAC50-70-150. Advancing the adoption of RMPs.**

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