Resource Management Plan Program FAQs

Revised August 2016

Contents

Certainty

1. Will RMP compliance be based on 2014 requirements (i.e. Nutrient Management, conservation plan, TMDL, etc.) or change over 9-year (safe harbor) period?
RMP compliance will be based on requirements in place at the time of issuance of a certificate of implementation. During the resulting 9-year safe harbor period, there should be no reason to change the standard to which the conservation plan was written or to address any changes to TMDL regulations. The nutrient management plan, however, must remain current and valid and program changes would need to be reflected in the NMP. Nutrient management plans have a 1-3 year lifespan.

2. Will Nutrient Management Plans (NMP) be valid for 9 years?
No. In order to remain compliant with an RMP, the NMP must remain current and valid throughout the 9-year safe harbor period. Every nutrient management plan has a lifespan of 1-3 years and must be revised to remain current throughout the 9-year safe harbor period.

3. After the 9-year safe harbor will original practices be "grandfathered", such as the original buffer being 35' but new requirement is 100'?
Once a Certificate of Implementation has expired, any new state requirements, including new TMDLs and revised minimum standards, must be addressed in a new RMP before a new Certificate of Implementation can be issued. Any original practice that no longer meets the standards will not be grandfathered.

4. When is a new farm eligible for an RMP? If there is a newly converted farm (land conversion for agricultural purpose) when is that farm eligible? Is there a need to establish a farming history first?
There is not any time requirement (waiting period) for RMP Program participation and eligibility to receive a Certificate of Resource Management Plan Implementation. However, the provision of cost-share for plan development and BMP implementation is based on the Virginia Agricultural Cost-Share (VACS) BMP Manual procedures that stipulate "[i]n order to be considered agricultural land [and to be eligible for cost-share], the real estate must consist of a minimum of five contiguous acres and there must be verifiable gross receipts in excess of $1,000 per year from the production or sale of agricultural, horticultural or forest products produced on the applicant's agricultural land for each of the past five years".

5. When does "certainty" actually begin; when the plan is signed, or when the last planned best management practice (BMP) is installed?
The nine years of "certainty" begins on the date the Certificate of Verification is issued. Certificate issuance is contingent on verification by the review authority that the BMPs in the RMP have been fully implemented.

6. If a producer is implementing all the components of an RMP, what is the point of certainty?
The program can give a level of certainty to the producer in knowing that if the state requirements change, he will have a period of time, the remainder of his certainty, before he needs to implement those new requirements.

7. Are there other reasons besides certainty for a participant to have or implement an RMP?
Participation in the RMP program:
   - *Provides producers with "certainty" from new Chesapeake Bay Watershed Implementation Plan (WIP) or local TMDL regulations for nine years.*
   - *Provides a comprehensive approach to determine the best conservation practices for each farming operation.*
   - *Provides credit for implementing practices that protect water quality.*
   - *Shows farmers as "good actors;" which may help stave off future regulations.*
   - *Provides decision-makers better data to determine funding needs for cost-share and other incentive programs based on BMP needs specified in the producers RMP.*

8. At the end of the 9-year period of certainty, is a whole new plan required to be written or can the plan be extended?
No, certainty cannot be extended. Depending on the situation, the plan may need to be revised (for example, there are changes in the operation or there are new requirements to be addressed.) In either case, in order to receive another 9-year period of certainty, the plan must be resubmitted for certification.

District Role/Responsibility

9. Can the District charge for services?
There may be a conflict of interest. Please check with your attorney regarding this matter.

10. Are the RMP plan review and inspection conducted by the same people and who? (i.e., District staff or DCR or both).
The RMP plan review and verification inspections are conducted by the review authority. The review authority is normally the District's Technical Review Committee (TRC) or staff assigned by the TRC. If the RMP was developed by a staff member or director of the District then review and verification responsibilities fall to DCR.

11. Do you have any standards for DCR's review of the District's handling of the authority components?
DCR shall periodically conduct a comprehensive review of the RMP duties performed by each District to evaluate whether requirements set forth in the regulations have been satisfactorily fulfilled. Procedures for this review are being developed.

12. What is the role of the local District in certification of its employees?
The District should ensure staff involved in the RMP program are proficient in their assigned duties, which includes becoming familiar with the RMP module and RMP policies and procedures. Each District should ensure that they have at least 1, preferably 2, staff persons who have TRC user role access in the module.

13. Does the District Board accept or deny the Technical Review Committee's (TRC) recommendation for the RMP? What are the responsibilities of the District Board?
The TRC provides recommendations to the District Board. The Board's actions can be independent of the recommendations. The Board may also delegate RMP approval to an authorized individual who

would approve the RMP outside of a formal Board meeting.

14. If the District's review authority is delegated to an individual, must the District still have a TRC?
Yes. RMP regulations require each soil and water conservation district to establish a Technical Review Committee (TRC). The TRC must review the plan and provide a recommendation to either the District Board or to the delegated authority. Only the District Board's authority to approve or deny RMPs can be delegated. The District Board may only delegate this authority to a qualified District Director, Associate Director, District staff member, or other authorized agent of the Board. The individual delegated approval authority may not be a member of the TRC.

15. Regarding inspections, will the District be responsible for tracking when inspections are due or will DCR "remind" the District and "assign" inspections similar to spot-check assignments?
The review authority is responsible for scheduling inspections.
It is DCR's intention to have the computer module notify Districts when periodic inspections are upcoming.

Technical Review Committee (TRC)

16. Is there any guidance on how a District's TRC should work?
Procedures, forms, and training explaining the operation of the TRC have been developed and are available on the RMP and TRC webpages.

17. What technical requirements need to be possessed by members of the TRC?
While there are no certification requirements for members of the TRC, the TRC needs to include members who are knowledgeable in the components of the RMP program including nutrient management and soil conservation. A TRC member does not need to be a conservation planner or need to be a certified RMP developer. It is recommended that at least one member of a TRC be a certified nutrient management planner. The TRC members need to have the necessary skill set to determine if an RMP meets all of the minimum standards and required components.

18. What training is needed for members of the TRC? Do they need the training before acting on the committee or within a certain amount of time?
Each District should ensure that they have at least 1, preferably 2, staff persons who have been trained and given TRC user role access in the module. For access to the computer module, users must attend a module-user training.

19. What if local District staff or TRC does not have the (job) approval authority or experience and knowledge to insure or certify that the practices meet technical and engineered (NRCS) standards?
BMP technical and engineering review would be conducted by the entity that provided the design (NRCS or DCR) if the practice is funded through a cost-share program. For voluntary practices, either the District or DCR has the responsibility to evaluate the BMP implementation. If the District does not have qualified staff, the District can recruit outside technical expertise to assist with the review. To fill the void in engineering technical assistance to Districts, DCR has an engineering staff who can provide such assistance.

20. Can a District staff member serve as chair of the TRC?

Yes. A TRC will function as other District committees. There is nothing to prohibit a staff member from serving as Chair on any committee, unless individual District policy prohibits.

21. Must all Districts form TRCs for RMPs in addition to existing committees (i.e., Agriculture, etc.) within the Districts?
Districts are required to have a TRC. TRC duties, however, could be performed by an existing committee if the existing committee includes members knowledgeable in the requirements of the RMP program. For example, a District with an Agriculture committee could appoint members of the Agriculture Committee to the Agriculture/TRC committee.

22. Are DCR Nutrient Management planners able to serve on the TRC?
Yes, but they are not required to do so. Their participation will be dependent on their individual workloads.

23. Are NRCS staff able to serve on the TRC?
There is no preclusion in state law or regulations regarding NRCS participation.

24. Do District employees count towards a quorum of a TRC?
It depends. If SWCD employees are appointed to a committee, then they make up the constituent membership of the committee and their attendance counts toward the quorum in accordance with § 2.2-3701.

25. Do non-voting advisors (such as NRCS staff) count towards a quorum of the TRC?
According to the FOIA council, the Freedom of Information Act (FOIA) does not distinguish between voting and non-voting members. If the advisors are in fact members of the TRC, then their attendance counts toward the quorum.

26. Must there be a quorum for TRC meetings?
The TRC may meet and discuss the RMP without a quorum, but the committee cannot take any action without a quorum. Because the determination to make a recommendation of approval or rejection of the RMP is considered an action, it is necessary for the TRC to have a quorum to make its recommendation.
Additionally, FOIA recognizes informal assemblages (i.e., no official action is taken) as meetings. If three members or a quorum are present, it is required that there be public notice of the meeting.

27. May a TRC develop an RMP-submittal policy?
A TRC may develop a policy as long as the policy does not conflict with RMP regulations or law.

Process

28. Should the landowner request an RMP or should the individual leasing the land request the RMP if he is not the landowner? Who exactly gets the certainty?
    The owner or operator can request the RMP and certainty.

29. Who specifically certifies that all practices have been installed prior to DCR issuing a certificate?
    The RMP plan developer must confirm through an onsite implementation inspection that the owner or operator has implemented all required BMPs included in the RMP. The owner or operator will then request the implementation verification inspection be done by the review authority.

30. How much time does DCR have to issue a certificate after the review authority verifies implementation and requests?
    The regulations are silent on this time period; this will be addressed in DCR Program implementation procedures. However, the review authority must notify the owner or operator within 30 days following the field review of the RMP if the RMP is not adequate or has not been fully implemented.

31. Who from DCR will be notifying the farmer of inspection deficiencies?
    DCR Program implementation procedures shall specify who is authorized within DCR to issue the written notice.

32. What happens if a TRC or District Board does not agree with a plan developed by a certified RMP planner (developer)?
    Either the District Board or DCR is the review authority and makes the final decision as to whether the plan meets the requirements of the regulations. The plan developer could revise the plan to address the review authority's concerns or seek an appeal in accordance with appeal procedures.

33. Can the RMP be deemed inadequate if it does not properly address the local ordinances, state laws, or Farm Bill requirements?
    The TRC must review the RMP based on the required components and minimum standards of the RMP regulations; however, the review authority can notify the owner or operator of any other requirements not addressed by the RMP.

34. Can an RMP be deemed inadequate because the owner or operator does not have a required Bay Act Plan?
    No. Although there are some similarities between an RMP and a Bay Act plan and there is a possibility that an RMP plan could satisfy the requirement for a Bay Act plan, the RMP regulations make no reference to Bay Act plans or local plan requirements. A TRC should review RMPs and District Boards should approve or deny an RMP based solely on whether the RMP fully meets the minimum standards set forth in 4VAC50-70-40 and the components specified in 4VAC50-70-50.

35. What happens if the TRC or DCR does not meet the 90 day (new) or 45 day (resubmitted) requirement?
    The regulations are mute on this point. The law and regulations do not automatically deem plans approved if the 90 or 45 day deadlines are missed.

36. What happens to an RMP on rented or leased land if the operator loses control of the farm or tract? Is there a transfer process when owner or operator status changes?
There is a transfer process for an RMP and any associated Certificate of Implementation. When an owner or operator changes, the new owner or operator may either:
1) Transfer, maintain, and implement the existing RMP;
2) Revise the RMP to reflect changes; or
3) Choose not to implement the RMP, resulting in loss of Certification.

37. May an owner or operator transfer RMP developer responsibility from one RMP developer to another developer?
Yes, an owner or operator may do so by submitting an Agreement Transferring RMP Developer Responsibility for a Resource Management Plan form.

38. If deficiencies are found by a TRC in a RMP, does the owner or operator request the plan developer to correct the deficiencies? Does the TRC give the plan developer technical advice to correct the deficiencies?
Deficiencies in a plan submitted for review would require the owner or operator to request that the RMP developer revise the plan. If deficiencies were found with the implementation of an RMP, the owner or operator would either need to address the deficiencies before a Certificate was issued or submit a Corrective Action Agreement if a Certificate has already been issued. The District may give technical advice to correct deficiencies.

39. Should an RMP plan developer attend TRC plan review meetings?
It could be beneficial for the plan developer to attend any public meetings held by the TRC, although, there is no requirement that the plan developer attend and the TRC cannot require that the plan developer attend. If the TRC is in closed session, it is up to the TRC to determine whether to allow the plan developer to attend the closed meeting.

40. How should documents related to RMP plan review and approval be processed and filed?
At TRC meetings, redacted RMP review packets with a cover sheet may be provided to the TRC for plan review. Packets should only be provided to the TRC; members of the public should not receive copies of this information. Plan review packets should be collected by staff at the end of the TRC meeting and destroyed or placed in an appropriate location to ensure that privacy provisions are maintained. The RMP plan itself can be provided to the District Board for approval but should not be included in Board meeting packets made available to meeting attendees who are not members of the Board. The RMP should not be filed with Board meeting packet attachments or any other files that may be seen or requested by the public. The redacted Plan Review Checklist can be provided to the Board, included in Board meeting packets, and a copy should be filed with Board meeting packet attachments. Copies of plan review checklists and any comments provided to the plan developer should be scanned and attached to the plan in the module. Original, signed, hard copies of the RMP plan and plan review checklist should be filed in a separate file (not with other conservation plans or BMP files) in a location that is not accessible to the public.

41. Can TRC members or staff bring a packet to the Board meeting?
Yes, the RMP review packet can be brought to the District Board meeting, as long as the applicant's information is protected from non-TRC members. TRC members and all Board members may see the packet. As FOIA guidance suggests, the packet should be redacted of personal and proprietary information as this material is being provided in an open meeting.

42. Can a District employee conduct a completeness review and, if not complete, send the RMP back to the plan developer prior to TRC review?
Yes. If a required plan component is not included, the employee may correspond with the plan developer to request the missing component(s).
In this case, the employee must "reject" the plan in the module. Rejecting the plan puts the plan back into the development phase and allows the plan developer to make additions or edits.
It is suggested that the employee include comments such as "A completeness review was conducted by (employee name) on (date). The following components were missing from the submitted plan."
The TRC has 90 days following submittal of a <u>complete</u> plan to review the plan.

43. What is the scope of the completeness review?
A completeness review is conducted to determine that each required component of the plan is included. A completeness review is not a review of the quality of the submission or for plan deficiencies. TRCs will review the quality of the plan and comment on plan deficiencies.

Compliance

44. For a RMP, does the farmer have to apply all the nutrients and lime called for in soil tests for a nutrient management plan in order to be in compliance, or could they apply less (for financial or other reasons) and still be in compliance?
Generally, the application recommendations contained in the NMP are the maximum recommended rates. The certified nutrient management planner developing the NMP should consider other agronomic factors, such as low soil ph, when determining the yield goals and making the nutrient recommendations, and make adjustments accordingly. A nutrient management plan must have recommendations for lime applications if the soils test indicates the need.

45. Once a RMP is completed and submitted for review, what are (if any) future responsibilities of the RMP developer if the owner or operator is found to be out of compliance during a future inspection?
The RMP developer makes a determination that the RMP has been fully implemented prior to the review authority verification inspection. The RMP developer is involved in making the determination if changes to the operation require an RMP modification. The RMP developer is again involved if a verification inspection reveals the need to develop a corrective action agreement.

46. Will DCR notify the plan developer of any deficiencies noted during an inspection in order for the plan developer to draft a Corrective Action Agreement (CAA)?
Yes.

Minimum Standards/Buffer Requirements

47. What does it mean in 4VAC50-70-50 when it states that the RMP includes the soil conservation plans from NRCS? Who gets this plan and how do they get the plan?
The regulations include a list of items considered to be components of an RMP, one item being "copies of nutrient management plans, any existing soil conservation plans from NRCS, RMPs, and any other conservation or water quality plan that includes the implementation of BMPs."
It is the responsibility of the RMP plan developer to obtain these plans (should they exist) either from

the owner or operator or on behalf of the owner or operator. An Authorization for Release of Information form will be required to obtain USDA plans. A link to that form can be found at http://www.dcr.virginia.gov/soil_and_water/rmp.shtml under the header "Resources for plan developers".

48. What is meant by NRCS soil loss?
RMPs must contain a soil conservation plan that achieves a maximum soil loss rate to "T" as defined by NRCS. Soil loss tolerance for a specific soil, also known as the T value, is the maximum average annual <u>soil loss</u> expressed as tons per acre per year that will permit current production levels to be maintained economically and indefinitely.

49. Why are buffers on intermittent streams, branches, creeks or water bodies not addressed compared to perennial streams or water bodies?
The law (§10.1-104.8) states that for "cropland or specialty crops" or "hayland", forest or grass buffers shall be required between such land uses and "perennial streams". Therefore, the buffer is only required adjacent to perennial waterbodies.

50. If the plan developer believes a stream to be intermittent, but the TRC believes the stream to be perennial, how does TRC react?
During the plan review process, the TRC should request the plan developer to provide evidence of the biological, hydrologic, and physical characteristics supporting his determination. The TRC may also conduct a field visit to document evidence of their determination. The District Board is the review authority and makes the final decision on plan approval. In response to the District Board's decision, the plan developer could revise the plan or the owner or operator could seek an appeal in accordance with appeal procedures (see section 110).

51. If the RMP addresses perennial streams in the plan, will it meet the needs or protection requirements for locality Bay Act plans?
Each locality establishes their own requirements for a resource protection area and resource management areas. Perennial flow is only a component of this designation.   Plan developers are encouraged to understand the Chesapeake Bay Preservation Act requirements in their localities and inform their clients should there be additional requirements above and beyond those of the RMP program.

52. Does the buffer of 35' include timber along a stream?
A 35-foot buffer can include a forested buffer but may also be grass. 4VAC50-70-40 states "A forest or grass buffer between cropland and perennial streams shall be consistent with NRCS standards and specifications, except no buffer shall be less than a minimum width of 35 feet as measured from the top of the channel bank to the edge of the field to meet water quality objectives."

53. What activities are allowed in a 35' buffer on hayland?
Depending on whether the buffer is forested or herbaceous, mowing, some harvesting, and wildlife management is permitted. If participating in a conservation incentive program such as VACS or EQIP, there may be limitations for operations and management, specific to that program. Fertilizer application is prohibited on buffers included in RMPs.

54. Is fertilizer application allowed on a hayland buffer?
    Although there are several options available under the NRCS buffer specifications that allow various management options, under RMP requirements, no fertilizer application is allowed.

55. Why is there a 35' buffer requirement for hayland?
    The law sets out which land uses require setbacks and the regulations require a 35' buffer on hayland.

56. Why are there no buffer requirement standards for pastures? Are there any requirements regarding the location of the fence line with regard to the edge of a stream bank? Are there any guidelines or requirements for management of the area between the fence line and the edge of the stream?
    The law sets out the land uses that require setbacks and does not require a setback on pasture
    The regulations are not prescriptive as to the location of the stream exclusion system or as to the management of the areas between the fence lines and the edge of the stream; however the area cannot be used for hay or crop production or livestock production.

57. Is a stream exclusion fence that an owner or operator has installed at their own expense subject to NRCS standards and specifications?
    No. Exclusion fencing does not have to meet NRCS standards; however, it must be permanent and provide year-round exclusion.

58. Do existing limited access sites on perennial streams (i.e. stream crossings and limited access watering sites) need to meet NRCS standards for an RMP?
    Yes, any limited stream access on perennial streams needs to meet NRCS standards that were applicable at the time of construction.

59. An owner or operator has two fields separated by a ditch with seasonal flow. Would this require a 35' fenced buffer?
    The first step involves determining whether the ditch meets the definition of perennial stream in the regulations. If so, the next step involves determining the land use of the fields. This will determine the setback requirements. If the ditch is determined to be perennial and the land use is croplands or hayland, a 35' buffer is required. If the land use is pasture, a fencing or exclusion system must be utilized that provides year-round livestock restriction to the streams. There is no buffer requirement associated with a pasture.

60. The regulations (4VAC50-70-40) state that "The department shall annually evaluate such BMPs through decision support tools to determine whether they achieve the minimum standards and are authorized for use in the RMP program as a component of an RMP" What is a decision support tool?
    Currently, the Chesapeake Bay Model and VAST tools are used to evaluate BMPs to determine if the BMPs achieve the minimum standards.

61. Are BMPs included in the nutrient management plan required in the RMP?
    Any practice that is required by a nutrient management plan is a required practice in the RMP. There may be some practices indicated as recommended in the NMP that are not required. For example, split application of nitrogen on corn may be recommended on some fields not determined to be

environmentally-sensitive in the NMP, but if the field is determined to be environmentally-sensitive, then the practice is required.

62. How much of a nutrient management plan is the RMP developer required to include?

A current nutrient management plan, containing all NMP components as identified in 4VAC50-85-130 must be submitted with the RMP. It is suggested that the NMP be submitted as an attachment to the RMP in the module. Until the planning module and NMP development software are integrated, if the NMP file exceeds the allowable file size of the RMP module, RMP developers have the option to submit a printed copy of the NMP to the District.

Any submitted NMP must contain all of the land management units included in the RMP. If the NMP includes more land units than contained in the RMP, the RMP developer may submit the entire plan or only the portion of the NMP that pertains to the land management units included in the RMP. If a plan developer submits a plan that contains additional land management units than those contained in the RMP, the developer should provide a glossary to indicate which land management units in the submitted NMP relate to the RMP. It is reasonable for a TRC to request one hard copy of the associated NMP.

Funding, RMP-1, and RMP-2 practices

63. As Districts review and inspect RMPs, how are they compensated?

RMP Operational Support for the review of RMPs is currently available until all remaining funds are expended. It has been suggested, however, that Districts monitor the time and dollars that they are expending related to the RMP program. These expenditures should be documented in the District's budget template. Doing so will help DCR to substantiate a request for increased SWCD funding necessary for Districts to perform RMP-related duties.

64. Why is there no lifespan for an RMP-2?

A practice lifespan, by definition, is the number of years a practice must be maintained in accordance with program standards and specifications. In the case of RMP-2, the certificate itself has a lifespan of nine years. The penalty for not maintaining the practice is essentially loss of certificate and consequentially, loss of certainty for a producer. There is no lifespan for the RMP-1 practice.

65. Are RMP-1 or RMP-2 practices eligible for carryover?

An approved RMP-1 practice is eligible for carryover but must be completed or cancelled by the close of the year following the year of approval. Although the RMP-2 was included in a list of practices eligible for carryover in the VACS manual guidance section; it is not eligible for carryover. An applicant should not be approved for RMP-2 until the practice has been completed.

66. If an SWCD staff wrote an RMP, can that individual receive the pass-thru cost-share payment? Can the SWCD receive the pass-thru payment?

There may be a conflict of interest. Please check with your attorney regarding this matter.

67. Can you receive NM-1A in conjunction with RMP-1?
   Yes, an applicant is eligible to apply for NM-1A in conjunction with RMP-1.
   As a clarification to language in the B.3.iii. portion of the NM-1A spec, an applicant is eligible to receive cost-share as long as he applies for NM-1A before applying for RMP-1 funding.

68. If an owner or operator has received payment for RMP-1 but, prior to receiving a certificate of implementation, the Chesapeake Bay Watershed Implementation Plan changes and the RMP no longer meets minimum standards, is that owner or operator eligible to receive RMP-1 again?
   No. RMP-1 specifications do not allow payment for revisions to an existing RMP unless there is a change of ownership and material changes to the farming operation.

69. Does cost-share funding go to Districts or the owner or operator?
   RMP-1 and RMP-2 cost-share practices make cost-share funding available for RMP development and RMP implementation. Payments will be made to the owner or operator, unless the owner or operator submits an "Assignment of Cost-Share Payment Authorization" form for the practice, assigning payment to another individual or business. The cost-share payment cannot be assigned to a District. The cost-share may be used to cover the expenses for the services provided by the RMP developer. RMP plan review and implementation verification costs are intended to be covered by District Administration and Operations funding. Participation by the Districts in the Budget Template process will be important to identify the costs, enabling DCR and the Districts to cooperatively seek additional funding from the General Assembly though the budget process.

70. Will money for plan development and implementation come from current cost-share money or will a new source of additional money be sought?
   To date, most plan development has been funded through federal grant funds. Additionally, statewide funds have been set-aside for RMP-1 and RMP-2 cost-share practices. RMP-1 and RMP-2 cost-share practices can be funded using these set-aside funds or with regular allocated VACS funds. When approving RMP-1 and RMP-2 practices and set-aside funds as the funding source, Districts should refer to the <u>Procedure for District approval of RMP-1 and RMP-2 practices</u> discussed in 2016 cost-share training.

71. Will VACS maintain a separate funding pool for BMPs in a RMP? If not, how will these be ranked against BMPs that are not for RMPs?
   No. BMPs in an RMP can be funded with an individual District's cost-share allocation, but are subject to ranking and approval by that District Board.

72. If an RMP requires BMP installation, how is cost-share going to be dealt with since cost-share is not guaranteed? Is there priority?
   The VACS Manual states that "Applications for cost-share or tax credit approval to implement BMPs that are included in an approved VA Resource Management Plan will receive priority consideration." Priority consideration is an eligibility or screening tool. This does not mean "highest" priority over other primary considerations in the latest cost-share policy. BMPs in RMPs are still subject to a District's secondary considerations and ranking process.

73. VACS guidance states that Districts must give priority to BMPs included in an RMP. How should this be accomplished?
   The VACS Manual states that "Applications for cost-share or tax credit approval to implement BMPs

that are included in an approved VA Resource Management Plan will receive priority consideration."
Priority consideration is an eligibility or screening tool. This does not mean "highest" priority over
other primary considerations in the latest cost-share policy. BMPs in RMPs are still subject to a
District's secondary considerations and ranking process.

74. Cost-share priorities or guaranteed cost share for the BMPs included in the RMP may be an incentive to participate in the RMP program.
    The Board's cost-share policy states that "Applications for cost-share or tax credit approval to
    implement BMPs that are included in an approved VA Resource Management Plan will also receive
    priority consideration." Prioritization is subject to the individual District's secondary considerations
    and ranking documents.

75. If the farm is sold during the 9-year plan, how are cost-share funds handled? Does the recipient receive the full amount or a proportion of the amount? Would a refund be required?
    RMP-1 and RMP-2 cost-share practice specifications include rates of $10 per acre for RMP plan
    development and $5 per acre for RMP plan implementation. If a farm having an approved RMP or a
    Certificate of Implementation has a change in owner or operator, RMP regulations allow and provide
    instructions for a transfer of the RMP and/or Certificate of Implementation. If the RMP is transferred
    and no material changes occur in the operation that require a revision to the RMP, the new owner or
    operator is not eligible to apply for an RMP-1. If there are material changes in the operation which do
    require a revision to the RMP, the new owner or operator may be eligible for the RMP-1 cost-share
    practice. Neither the RMP-1 nor the RMP-2 have a practice lifespan; therefore, if the previous owner
    or operator received cost-share funds for an RMP-1 or RMP-2 practice, there is no obligation to
    refund cost-share payment to the District or to transfer responsibility of the BMP to the new owner or
    operator.

76. *If there is a large increase in District workload for plan review and inspections,; will there be an*
    equivalent increase in funding for the District in Technical Assistance funding and Cost Share
    allocation? Where will the money come from?
    The District Budget Template process will be the best way to identify administration and operational
    funding needs and will be used to make informed budget increase requests of the General Assembly
    to help support program implementation as participation grows.

FOIA/Privacy/Information Accessibility

77. How will the agency monitor the module to ensure the public doesn't get access to personal information?
    The modules have been developed with limited access based on assigned user role; modules will not
    allow access to the entire tracking program information.

78. *Is the fact that a developer will be able to see that a plan exists on a given piece of property a*
    violation of the FOIA exemption?
    Plan developers will be able to see that a plan exists on a given piece of property, but personal and
    propriety information will be protected.

79. *Before information is released under the FOIA exception provided for RMPs, is the owner or operator notified and given an opportunity to appeal the release?*
    No. The provision only allows for statistical or aggregate data to be released by DCR. Any other release of information will require permission from the person.

80. If a District is using an existing committee to review RMPs, is the meeting still required to be public noticed? Would noticing our Board of Directors meeting suffice?
    All District committee meetings, including TRC meetings, are considered open, public meetings and must be noticed. Additionally, minutes must be taken at the meetings. All committees are considered public bodies and therefore, all committee meetings are to be considered public meetings regardless of their membership.

81. Are maps considered protected information? Are maps to be redacted from the packet in meetings?
    Yes, maps are protected information. Maps may be included in meeting packets; however, maps should be redacted to the extent possible to prevent disclosure of protected information.

82. Are only District employees allowed to see the maps related to a RMP submission to the Technical Review Committee (TRC)? The District Directors that serve on the TRC will need topographic, water features and other map data to adequately review and approve RMPs.
    Any TRC or Board member may see maps. Maps or any other protected information should not, however, be included in the TRC RMP review meeting packet as these packets are being taken into an open, public meeting.

83. Please clarify what level of redacting is needed for RMP review by the TRC and then later by the local District Board.
    According to FOIA guidance, personal information (name, address, etc.) should be redacted. Any other identifying information should also be redacted; to the extent it is possible, without compromising the TRC's ability to evaluate the RMP.

84. Should TRC members have a signed 1619 agreement?
    Yes, if the plan contains any information protected by section 1619 of the USDA Farm Bill.

85. May a TRC or Board member have access to a non-redacted RMP review packet?
    Yes. A TRC or Board member can view any information included in the RMP.
    FOIA guidance suggests that all RMP packets should be redacted before being taken into an open meeting. This does not mean that a TRC member or a Board member cannot be provided with information necessary to review or approve the plan. It does mean that personal and proprietary information should not be included in a TRC committee meeting packet.
    The module also has the functionality to provide a redacted plan to be include in the TRC meeting packet.
    The TRC may also consider using the module instead of printed paper copies to review a plan. This could be done in closed session or if no other individuals besides the TRC are in attendance.

RMP Developer

86. Is it a conflict of interest if I am a District employee, Director, Associate Direct, or TRC member and I am a plan writer?
There may be a conflict of interest. Please check with your attorney regarding this matter.

87. Is a non-agricultural, Turf and Landscape Nutrient Manager Planner considered an equivalent to an Agriculture Nutrient Manager Planner?
No.

88. Will the RMP writer be responsible for actually writing nutrient management plans and conservation plans or will they be allowed to "collect" plans that already exist?
The RMP developer can include nutrient management and conservation plans done by others for use in the RMP. The RMP developer is certifying he has reviewed the plans and they meet the requirements. At that point, the nutrient management plan and the conservation plan become the responsibility of the RMP developer for the purposes of the RMP.

89. Will there be a RMP planner database?
Yes. The DCR website contains a list of those certified planners.

Modules

90. What is standard format for a Resource Management Plan?
The RMP developer shall prepare the RMP in a format established by DCR or in a format approved by the Board as equivalent. The RMP module, is the only way to produce a plan in the standard format.

91. What is the process for requesting logins and user roles?
DCR offers RMP TRC module training required to be assigned a TRC user role. DCR has a form for requesting logins and user roles.

92. Is a farm or field assessment required?
The module requires an assessment. There is no required format. A sample format has been provided to plan developers on the RMP website.

Other

93. Will RMP's also meet the whole farm assessments required by counties in regards to the Chesapeake Bay Preservation Act? In Bay areas, landowners are already required to have whole farm assessments conducted?
While it would be beneficial for RMP developers to make the program participant aware of local ordinances, state laws, the Chesapeake Bay Act, and Farm Bill requirements, the RMP law does not require that a developer do so. DCR and DEQ Chesapeake Bay Preservation Act staff have agreed that the RMP farm assessment and resulting plans could serve both programs, saving farmers and district staff a considerable amount of time.

94. Who markets the RMP program?
    DCR established a marketing committee to promote the RMP program. Agriculture advocacy groups such as Virginia Farm Bureau, the Virginia Agribusiness Council, and the Virginia Small Grain Producers Association lobbied for this program and have committed to promote the program. Local Districts will be instrumental in marketing the program within their communities. Certified private RMP developers will also market the program.