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**HOUSE BILL NO. 1830****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on February 3, 2011)

(Patron Prior to Substitute—Delegate Scott, E.T.)

A *BILL to amend the Code of Virginia by adding in Chapter 1 of Title 10.1 an article numbered 1.1, consisting of sections numbered 10.1-104.5, 10.1-104.6, and 10.1-104.7, relating to agriculture; resource management plans.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 1 of Title 10.1 an article numbered 1.1, consisting of sections numbered 10.1-104.5, 10.1-104.6, and 10.1-104.7, as follows:**

*Article 1.1.*

*Resource Management Plans.*

*§ 10.1-104.5. Resource management plans; effect of implementation; exclusions.*

*A. Notwithstanding any other provision of law, agricultural landowners or operators who fully implement and maintain the applicable components of their resource management plan, in accordance with the criteria for such plans set out in § 10.1-104.6 and any regulations adopted thereunder, shall be deemed to be in full compliance with (i) any load allocation contained in a total maximum daily load (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient or sediment impairments, (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan, and (iii) applicable state water quality requirements for nutrients and sediment.*

*B. The presumption of full compliance provided in subsection A shall not prevent or preclude enforcement of provisions pursuant to (i) a resource management plan or a nutrient management plan otherwise required by law for such operation, (ii) a Virginia Pollutant Discharge Elimination System permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.).*

*C. Landowners or operators who implement and maintain a resource management plan in accordance with this article shall be eligible for matching grants for agricultural best management practices provided through the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department in accordance with program eligibility rules and requirements. Such landowners and operators may also be eligible for state tax credits in accordance with §§ 58.1-339.3 and 58.1-439.5.*

*D. Nothing in this article shall be construed to limit, modify, impair, or supersede the authority granted to the Commissioner of Agriculture and Consumer Services pursuant to the Agricultural Stewardship Act (§ 3.2-400 et seq.).*

*§ 10.1-104.6. Resource management plans; criteria.*

*A. The Soil and Water Conservation Board shall by regulation, and in consultation with the Department of Agriculture and Consumer Services and the Department of Environmental Quality, specify the criteria to be included in a resource management plan.*

*B. The regulations shall:*

*1. Be technically achievable and economically feasible;*

*2. Include (i) determination of persons qualified to develop resource management plans and to perform on-farm best management practice assessments; (ii) plan approval or review procedures if determined necessary; (iii) allowable implementation timelines and schedules; (iv) effective life of the resource management plans; (v) factors that necessitate renewal or new plan development; and (vi) a means to determine full implementation and compliance with the plans including reporting and verification;*

*3. Provide for a process by which an on-farm assessment of all reportable best management practices currently in place, whether as part of a cost-share program or through voluntary implementation, shall be conducted to determine their adequacy in achieving needed on-farm nutrient, sediment, and bacteria reductions;*

*4. Include agricultural best management practices sufficient to implement the Virginia Chesapeake Bay TMDL Watershed Implementation Plan and other local total maximum daily load water quality requirements of the Commonwealth;*

*5. Specify that the required components of each resource management plan shall be based upon an individual on-farm assessment. Such components shall comply with on-farm water quality objectives, including best management practices identified in this subdivision and any other best management practices approved by the Board or identified in the Chesapeake Bay Watershed Model or the Virginia Chesapeake Bay TMDL Watershed Implementation Plan.*

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60 a. For all cropland or specialty crops such components shall include the following, as needed and  
61 based upon an individual on-farm assessment:

62 (1) A nutrient management plan that meets the nutrient management specifications developed by the  
63 Department;

64 (2) A forest or grass buffer between cropland and perennial streams of sufficient width to meet water  
65 quality objectives and consistent with Natural Resources Conservation Service standards and  
66 specifications;

67 (3) A soil conservation plan that achieves a maximum soil loss rate of "T," as defined by the Natural  
68 Resources Conservation Service; and

69 (4) Cover crops meeting best management practice specifications as determined by the Natural  
70 Resources Conservation Service or the Virginia Agricultural Best Management Practices Cost-Share  
71 Program.

72 b. For all hayland, such components shall include the following, as needed and based upon an  
73 individual on-farm assessment:

74 (1) A nutrient management plan that meets the nutrient management specifications developed by the  
75 Department;

76 (2) A forest or grass buffer between cropland and perennial streams of sufficient width to meet water  
77 quality objectives and consistent with Natural Resources Conservation Service standards and  
78 specifications; and

79 (3) A soil conservation plan that achieves a maximum soil loss rate of "T," as defined by the Natural  
80 Resources Conservation Service.

81 c. For all pasture, such components shall include the following, as needed and based upon an  
82 individual on-farm assessment:

83 (1) A nutrient management plan that meets the nutrient management specifications developed by the  
84 Department;

85 (2) A system that limits or prevents livestock access to perennial streams; and

86 (3) A pasture management plan or soil conservation plan that achieves a maximum soil loss rate of  
87 "T," as defined by the Natural Resources Conservation Service.

88 § 10.1-104.7. Regulations under this article.

89 Regulations adopted by the Board for the enforcement of this article shall be subject to the  
90 requirements set out in §§ 2.2-4007.03, 2.2-4007.04, and 2.2-4007.05 of the Administrative Process Act,  
91 and shall be published in the Virginia Register of Regulations. The Board shall convene a stakeholder  
92 group to assist in development of these regulations with representation from agricultural and  
93 environmental interests, as well as Soil and Water Conservation Districts. All other provisions of the  
94 Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to the adoption of any regulation  
95 pursuant to this article. After the close of the 60-day comment period, the Board may adopt a final  
96 regulation, with or without changes. Such regulation shall become effective 15 days after publication in  
97 the Virginia Register of Regulations, unless the Board has withdrawn or suspended the regulation, or a  
98 later date has been set by the Board. The Board shall also hold at least one public hearing on the  
99 proposed regulation during the 60-day comment period. The notice for such public hearing shall include  
100 the date, time and place of the hearing.