

Technical Service Provider Certification Rule

Section 1. General

- (1) Purpose: The Technical Service Provider (TSP) Certification Rule establishes procedures and standards to achieve certification to operate as a consultant in Vermont providing the service of preparation and maintenance of nutrient management plans and related farm operation permitting and certification materials. The TSP certification program ensures farms in Vermont are provided nutrient management plans that meet or exceed the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) Conservation Practice Standard for Nutrient Management Code 590 (590 Standard), the Required Agricultural Practice regulations, the Medium and Small Farm Operation Rules for Issuance of General and Individual Permits (MFO Rules and Permits) and Large Farm Operations (LFO) Rules and Permits. This Rule is intended to improve water quality by reducing and mitigating cropland erosion, sediment losses, and nutrient losses through professionally certified nutrient management planning, farm permitting and certification services.
- (2) Authority: 6 V.S.A. § 4989 Certification of nutrient management plan technical service providers

Section 2. Definitions

- (1) Technical Service Provider (TSP) means a person who is engaged in preparing a nutrient management plan, provides consulting services for a farm they do not own, lease, or manage to satisfy the requirements of the Required Agricultural Practices (RAPs), Medium and Small Farm Operation Rules for Issuance of General and Individual Permits (MFO Rules and Permits) and Large Farm Operations (LFO) Rules and Permits for a farm, and who charges or collects other consideration for the service.
- (2) Nutrient Management Plan (NMP) means a written plan which satisfies the requirements of the RAPs, MFO Rules and Permits, LFO Rules and Permits, and the USDA NRCS 590 Standard.
- (3) Secretary means the Secretary of the Agency of Agriculture, Food & Markets.

Section 3. Certification

- (1) Each individual TSP writing NMPs or providing regulatory consulting services such as permitting and certification on behalf of a farmer shall be certified by the Secretary in order to operate within the State and shall comply with all applicable current requirements of the RAPs, MFO Rules and Permits, LFO Rules and Permits, and the USDA NRCS 590 Standard. Beginning 45 days after the effective date of this rule, a TSP shall not create an NMP, nor provide regulatory consulting services, for a farm unless certified by the Secretary.
- (2) To be certified by the Secretary, a TSP shall:
 - (a) be certified in Vermont to provide technical services for USDA NRCS 590 Standard and other relevant conservation practices by the USDA Natural Resource Conservation Service, and
 - (b) seek TSP Certification by the Secretary in a format prescribed by the Secretary.
- (3) TSP certification shall be valid for five years from the date of issuance. The certification year will extend from July 1 through June 30.

- (4) Certified TSPs shall complete eight hours of training as approved by the Secretary in each five-year period of certification. Records of training shall be maintained in a manner prescribed by the Secretary. Completion of five-year training requirements will serve as meeting the requirements for recertification.
- (5) TSPs shall acquire training in the methods, techniques, or tools used to help producers plan, design, and implement NMPs to improve agricultural operations, water quality, and soil health and comply with the RAPs, MFO Rules and Permits, and LFO Rules and Permits. Trainings shall provide information regarding:
 - (a) calculating manure and agricultural waste generation;
 - (b) taking soil and manure samples;
 - (c) identifying and creating maps of all natural resource features;
 - (d) use of erosion calculation tools;
 - (e) reconciling plans using records;
 - (f) use of nutrient index tools; and
 - (g) requirements within the RAPs, MFO Rules and Permits, and LFO Rules and Permits.

Section 4. Regulatory Requirements

- (1) Certified TSPs shall prepare and furnish NMPs for client farms which satisfy all regulatory requirements found in the RAPs, MFO Rules and Permits, LFO Rules and Permits, the USDA NRCS 590 Standard, and other requirements as applicable to the farm operation. This includes taking professional responsibility for any data or analysis in the NMP.
- (2) Certified TSPs that prepare annual reports, application forms, create other documentation or submit information to the Agency as part of the nutrient management plan components of permitting or certification programs must ensure this information and records satisfy all regulatory requirements found in the RAPs, and MFO Rules and Permits, LFO Rules and Permits, the USDA NRCS 590 Standard, and other requirements as applicable to the farm operation.
- (3) Certified TSPs shall maintain records for a period of five years and provide those records to the Agency upon request. The records shall include field management activities provided by the farm, or farm contractor, including:
 - (a) crop type and nutrient applications,
 - (b) imports and exports across the farm of nutrients and agricultural waste, or
 - (c) any records provided by the farm to the TSP that were utilized to develop a NMP or to submit application materials or records to the Agency.
- (4) Certified TSPs shall certify whether the NMP prepared for a farm has the required land base and waste storage to adequately meet the RAPs, the USDA NRCS 590 Standard, and either the MFO Rules and Permits or LFO Rules and Permits as applicable to the farm operation. A NMP can be written for a farm with inadequate storage or land base, however the TSP must require export in the plan if there is insufficient land base or storage.
- (5) Certified TSPs shall prepare NMPs, permit and certification materials in a manner and format as prescribed by the Secretary.
- (6) Where major modifications occur to rules, procedures, standards, and tools that relate to the work TSPs provide, the TSP will be given at minimum one year notice by the Agency on when the new requirements must be implemented. The Agency will take input from TSPs on the timing and extent of the required changes prior to providing a determination of when the new requirements must be implemented.

- (7) Certified TSPs are subject to audits by the Agency to validate accuracy of NMP details. Certified TSPs shall furnish information including but not limited to calculations for nutrient recommendations, calculations for erosion, fields with patterned tile drainage, calculations and methods for waste generation, inputs into nutrient index tools, soil and waste analyses results from the laboratory.

Section 5. Professional Responsibility

Certified TSPs shall certify that the NMP, permit or certification documents, annual reports or other related documents developed for a farm meet the requirements of the RAPs, MFO Rules and Permits, LFO Rules and Permits, the USDA NRCS 590 Standard, as applicable, and are as prescribed by the Secretary.

Section 6. Enforcement

- (1) Violations of this Rule are subject to enforcement by the Secretary and the Attorney General under the provisions of 6 V.S.A. Chapter 1 and Chapter 215 §§ 4991 - 4996 and additional remedies available to the State under other applicable Vermont law.
- (2) Violations of this Rule by a TSP can result in penalties including the revocation or suspension of certification of a TSP whereby a TSP can no longer operate in the State.