

DRAFT: Not for release

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March 18, 2014

State of Vermont House of Representatives
Committee on Agriculture & Forest Products

Re: House Bill 586

Members of the committee, Madame Chair,

Thank you for the opportunity to address you and answer your questions. My name is Bill Moore and I am the Legislative Director & County Organizer for the Vermont Farm Bureau. VFB is a county based statewide membership group comprised of nearly 3,500 farms, farm homesteads and farm businesses. Members represent dairy, livestock, equine, vegetable, fruit, maple sugar, forestry, compost, food manufacture, organic and traditional farms throughout all 14 counties. It is a privilege to address you today.

Our mission at VFB is to promote healthy economics and healthy working conditions for our members. This has always been done with the health of soils and waters of the state in mind. Nineteen years ago VFB was a leader in developing and adopting the Accepted Agricultural Practices (AAPs) as the presumptive process by which farms could be a partner in Vermont's efforts to comply with the federal Clean Water Act. By necessity, the AAPs are primarily outcome based performance standards rather than rigid prescriptive rules. This approach allows for and encourages innovation, experimentation and site specific solutions, creating a cooperative relationship between farmers and Agency of Agriculture, Food & Markets (AAFM) field staff. The authority agreed to in an MOU (memorandum of understanding) between AAFM and the Agency of Natural Resources has allowed farms to deal with one agency over the whole range of water quality and resource economics issues common to all farm types. We approve. Put simply, they know us best and we know them.

With all its' benefits, this has led over the years to a "complaint driven" system where it comes to potential violations by farm operators. While this is a known deficiency, we definitely believe the AAP & BMP (best management practices) system affords the best model for continued success both in water quality and farm performance outcomes. It allows for the exploration of a variety of techniques and the pursuit of "best available technologies" for such

areas as manure management and nutrient application. Your committee has recently taken some excellent testimony on some very promising technologies in these areas. The AAPs create, on every single farm, an incubator type atmosphere for these entrepreneurs and innovators. Working in concert with dedicated AAFM staff almost always enhances that atmosphere. This leads to a variety of techniques for mitigation of potential violations. All that is needed to close the loop is an approach that stresses “education, advocacy and implementation” at deficient farm sites. With agency staff we presently have such an approach. The AAPs form the best foundation for closing that loop. The current lack of agency resources can be mitigated some by the educational efforts of some partner groups like VFB, NOFA and Rural Vermont (who have already offered to work with us on our AAP education efforts).

VFB desires that you take a serious and skeptical view towards any proposal that can stifle such an approach. We also request that you evaluate every single initiative for its’ effect on an already overburdened and understaffed Agency of Agriculture. While it is clear that funding is simply not forthcoming for permanent replacement of the reduced staff at the agency, we need to take an approach that recognizes the tools already at our disposal and how to best utilize them.

H. 586 has several well intended sections which will create undue burdens on the agency and stifle this atmosphere so integral to our success. It also proposes to specifically alter the current “outreach” approach to potential “violators” with a very punitive and adversarial attitude (see section 4, pages 10-12). While I understand the agency’s desire to streamline the process, I believe I can outline a better method than drafted in the current bill (v.1.9).

Another area of concern is the creation of new regulatory architecture over the growing and dynamic sector of “custom manure applicators”. While the goals of the section (page 17, lines 9-12) are laudable, they are redundant to AAPs and BMPs while undermining the efficiencies created by a vibrant private sector service industry. Many farms have benefited from not having to maintain costly and task specific equipment while pursuing the best application technology available. I believe recent testimony before your committee bears this out. As these services become more prevalent, they become available to a range of farm sizes for competitive rates. This will enhance nutrient management planning and compliance on MFO and smaller farms. For these reasons, VFB recommends you delete the entire section.

While it appears that section 5, Livestock Exclusion, has improved greatly by returning to a site specific, AAP driven approach, I would like to propose a small but significant change to the language triggering any exclusion order from the Secretary. I believe this will offer clarity and reduce potential litigation.

Section 6, which effectively lifts the current “winter manure spreading ban” and offers a process by which the Secretary can allow year-round area and weather specific manure management is an excellent move. We applaud it and encourage the agency to embrace it immediately upon passage. We have questions regarding the notification and broadcasting of the agency’s exemptions as issued. Will there be an easily accessible site where daily updates can be seen and understood for those anticipating early/late season application? I foresee a site like a weather forecast or school closings listings by region, town or watershed. Perhaps some guidance from the committee can clarify this. I do have one small edit I would like to suggest after my reading.

Section 23 regarding “Report on Accepted Agricultural Practices under Use Value Appraisal” is of grave concern. Its’ name declines to specify that it creates a “plan for implementing a requirement that an owner of agricultural land certify compliance with the AAPs in order to participate or continue participation in the use value appraisal program”. While this goal seems simple and reasonable, adding policy goals to the Use Value Appraisal program detracts from the primary mission we all support in Current Use Taxation. That is: to keep Vermont’s land open and Vermonters working on open land.

As the AAPs already apply to any scale of agriculture eligible for UVA taxation, why risk diluting the Current Use goals for a redundant policy? UVA is not a carrot or a stick, it is fair taxation of land owned by thousands of working Vermonters who carry a heavy burden for a benefit enjoyed by all Vermonters. In addition, the AAPs are adopted by rule and can be amended for water quality and agricultural reasons having nothing to do with UVA taxation policy. This creates a moving target with regards the proposal and unnecessary pressure to draft AAPs so they don’t conflict with UVA rules, which already struggle with outside pressures.

Lastly, I suspect you are wondering why I have not specifically mentioned section 1, Small farm Certification. It is because I hope we can begin our discussion there now as I conclude my remarks. The idea of small farm certification has had a great deal of discussion going back to the Agricultural Working Group recommendations regarding “certification to the AAPs”. While we applaud the movement away from the heavy handed approach to small farm and livestock exclusion regulation in the original bill, AAFM staff and resources will still be found sadly inadequate to the task of small farm regulation. Certification by affidavit, the heart of section 1, merely begs the terrifying question of how we reach, educate, advocate for and understand the challenges faced by the 6,000 plus smaller farm operations here in Vermont. I would like to propose several small but significant edits to improve the approach of the legislation. These include removing significant listed goals of AAP certification. I believe I can show these to be redundant to a knowledgeable reading of the actual current AAPs and so would reduce confusion in the field.

I need to add that the agency designation of a Small Farm Coordinator shows that we are all on the same page with regards priorities. VFB has offered all available resources to assist this new office with its' work. We are also, as most of you know, already set out on a goal of distributing printed copies of the AAPs to every small farm in Vermont. VFB believes in this simple approach. With regards the AAPs, we must first educate, second advocate and finally implement their use as the foundation for farm operations at every level. Educate, Advocate & Implement. That is simpler government 101.

Please feel free to question me vigorously following my testimony. My time is yours today and I am available to your committee at all times on any issue.

Thank you,

William (Bill) Moore
Legislative Director & County Coordinator