

## **H.484: An Act Relating to Miscellaneous Agricultural Subjects**

Overview and Section by Section Summary as proposed by the Senate Agricultural Committee

### **Overview**

H. 484 is the annual Agency of Agriculture, Food and Markets (AAFM) housekeeping bill, which makes technical or minor changes to AAFM authority or programs. This year, AAFM is seeking to make changes to:

1. How it finances agricultural water quality projects;
2. How the Division of Weights and Measures calculates unit pricing;
3. How drug residue is tested in milk and the body tissue of cows;
4. How AAFM refunds overpayments on licenses; and
5. The operation of the Working Lands Enterprise Board and the Agricultural and Forest Products Development Board.

Additionally, H.484 makes changes to Vermont statutes for animal shelters, sales and use tax for agricultural equipment, unpasteurized milk, and requires a study of motor fuel oil prices.

### **Sections 1-16: Agriculture Water Quality Financing**

Sections 1 through 16 of H.484 amend requirements and conditions for the loans and grants that AAFM issues for agricultural water quality projects. The amendments are intended to make the State agricultural water quality requirements more closely match the U.S.D.A. NRCS programs.

#### **Sec. 1. 6 V.S.A. § 4815. Waste Storage Facility Definition**

- Sec. 1 amends the definition of “waste storage facility” to delete the exclusion of concrete slabs used for agricultural waste management.
- Waste storage facilities are eligible for financing from the agency.
- Concrete slabs can be used by farmers to field stack manure instead of liquid manure ponds.

#### **Sec. 2. 6 V.S.A. § 4820. “Good Standing” Definition**

- Sec. 2 adds a definition of “good standing” for the subchapter of law that governs technical and financial assistance from AAFM for agricultural water quality.
- “Good standing” will mean a participant in an AAFM program:
  1. Does not have an active AAFM enforcement action against them that reached final order; or
  2. Is in compliance with all terms of a current grant agreement or contract with AAFM.

#### **Sec. 3. 6 V.S.A. § 4821. State Assistance to Farmers—Term of Grant Agreement**

- Sec. 3 amends the statutory section that establishes the AAFM financial and technical assistance program for farmers.
- Currently, AAFM is providing assistance according to grant agreements, not contracts.

- Sec. 3 amends statute to provide that AAFM will provide technical assistance to farmers during the term of grant agreements, instead of the “life of the state assistance award contract.”

**Sec. 4. 6 V.S.A. § 4822. Eligibility of Agricultural Water Quality Assistance**

- Sec. 4 adds to the eligibility requirements for AAFM assistance that a farmer must be in good standing with the agency at the time of the grant award.

**Sec. 5. 6 V.S.A. § 4824. Form of Assistance**

- Sec. 5 changes the current reference to “contracts” awarded to farmers to “grants” awarded farmers to reflect the current practice of providing assistance by grant.

**Sec. 6. 6 V.S.A. § 4826. Cost Assistance for Waste Storage Facilities**

- Sec. 6 strikes the definition of “waste storage facility.”
  - The definition of waste storage facility is included in 6 V.S.A. § 4815, which provides the standards for waste storage facilities in the State.
- Sec. 6 also clarifies that suspension of design requirements for a waste storage facility due to lack off AAFM funds for cost assistance applies to large farms as well as medium farms.
  - Design requirements are not eliminated, but delayed until funds are available.
- Finally, Sec. 6 adds language to allow an owner or operator to apply for cost assistance in complying with U.S.D.A. waste storage facility inspection requirements.

**Sec. 7. 6 V.S.A. § 4827. Nutrient Management Planning Incentive Grants**

- Sec. 7 clarifies that suspension of nutrient management planning requirements due to lack of AAFM funds for cost assistance applies to large farms as well as medium farms.
  - Nutrient management requirements are not eliminate, but delayed until funds are available.
- Sec. 7 also changes a reference to “contracts” for assistance to “grants.”

**Sec. 8. 6 V.S.A. § 4828. Capital Assistance Program—Additional Priorities**

- Sec. 8 amends the requirements for the AAFM capital assistance program to strike the requirement that AAFM set additional priorities for assistance by rule.
  - Statute lists priorities. AAFM can adopt additional priorities by procedure or other method.

**Sec. 9. 6 V.S.A. § 4849. Animal Waste Recycling**

- Sec. 9 authorizes AAFM to inform all farms of digester or composting methods for manure.
  - Currently, § 4849 provides that AAFM shall only inform large farm operations.

**Sec. 10. 6 V.S.A. § 4850. Definition of Domestic Fowl and Livestock on Large Farms**

- Sec. 10. Amends the definitions of “domestic fowl” and “livestock” for large farm permits.

- The amendment to the definition of domestic fowl gives AAFM authority to deem other types of birds as domestic fowl for the purpose of the large farm permit program.
- The amendment to the definition of livestock adds “mature cow/calf pairs, youngstock, heifer, bulls, and goats to the definition, while also giving AAFM authority to deem other animals as livestock for the purpose of the large farm permit program.

**Sec. 11. 6 V.S.A. § 4851. Consistency with USDA Standards on Large Farms**

- Sec. 11 amends the statute governing large farms to require that manure management systems, nutrient management plans, and stormwater runoff on a large farm meet USDA standards.

**Sec. 12. 6 V.S.A. § 4856. Animal Waste Recycling--Repeal of MFO Authority**

- Sec. 12 repeals the requirement under the Medium Farm permit program that the AAFM inform farmers of methods for composting or digesting manure.
- The section is no longer necessary due to the amendments in Sec. 9 of the bill expanding the information requirements for large farms to all farms.

**Sec. 13. 6 V.S.A. § 4857. Medium Farms—Definition of Domestic Fowl & Livestock**

- Sec. 13. Amends the definitions of “domestic fowl” and “livestock” for medium farm permits.
  - The amendment to the definition of domestic fowl and livestock gives AAFM authority to deem other types of birds or animals as domestic fowl or livestock for the purpose of the medium farm permit program.

**Sec. 14. 6 V.S.A. § 4858. Medium Farms—Consistency with USDA Standards**

- Sec. 13 amends the requirements for medium farms to provide that manure management systems and nutrient management plans on a medium farm must meet USDA standards.

**Sec. 15. 6 V.S.A. § 4900. Vermont Seeding and Filter Strip Program**

- Sec. 15 renames the existing Vermont Agricultural Buffer Program as the Vermont Seeding and Filter Strip Program
  - The program compensates farmers for conservation practices in proximity waters.
- Sec. 15 also expands the activities that qualify for State compensation to include grassed waterways and filter strips, on agricultural land perpendicular to or adjacent to surface waters
- Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay. Land under the program cannot be rotated into an annual crop for 10 years.
- Acreage managed as hay shall have a prior history of use for corn or another commodity crop.
- Payments under the program shall be made at the beginning of a 10-year agreement.

**Sec. 16. 6 V.S.A. § 4951. Farm Agronomic Practices Programs**

- Sec. 16 amends the Farm Agronomic Practices Program.

- The Farm Agronomic Practices Program provides financial assistance for soil-based practices that improve soil quality and nutrient retention. The current statute lists the practices eligible for funding and provides that AAFM shall fund these practices.
- Sec. 16 amends the statute to provide that AAFM may fund the practices.

**Sec. 17. 6 V.S.A. § 1; General Powers of Secretary of Agriculture; Refund**

- Sec. 17 amends the Secretary of Agriculture’s general authority to provide that the Secretary shall only provide refunds for overpayments on licenses, permits, or registrations when the overpayment is \$25.00 or more.
- For overpayments of less than \$25.00, the cost of staff time and mailing expense exceeds the amount of the refund.

**Sec. 18. 6 V.S.A. § 2744a. Dairy Operations; Drug Residue in Milk and Body Tissue**

- Sec. 18 amends the requirements in statute regarding the testing of milk for drug residues.
- If milk from a dairy producer contains drug residue, that producer’s milk shall not be received by any milk dealer or handler until a sample from one complete milking is found negative
- If a second drug residue violation occurs within 12 months of the first violation, no milk from that producer may be accepted by a milk handler or dealer until a sample from one complete milking has been collected and found negative.
  - The producer shall be subject to an administrative penalty of the value of one day’s milking.
- If a third drug residue violation occurs within 12 months of the first violation, no milk from that producer may be accepted by a dealer or handler until at least one sample from one complete milking has been found negative.
  - The producer shall be subject to an administrative penalty of the value of one day’s milking.
  - A hearing will be held to determine if the producer may continue to ship milk.
- Sec. 18 also provides that no milk handler shall accept milk from a producer:
  - after a drug residue violation has occurred until a sampling of at least one complete milking has returned negative;
  - who is suspended from selling milk is suspended or
  - who fails to pay an administrative penalty for a drug residue violation.
- Sec. 18 also clarifies the drug residue testing requirements for sale of livestock for slaughter.
- No livestock may be sold for slaughter if its bodily tissue contains drugs at levels exceeding USDA tolerances
- If livestock intended for slaughter are found to have drug residues in bodily tissue above the USDA tolerances, current statute authorizes an administrative penalty against the farm.
- Under Sec. 18, the Secretary also may require the farm to participate in a program to mitigate further sale of animals containing excessive drug residue.

**Sec. 19. 9 V.S.A. § 2633. Weights and Measures; Unit pricing**

- Sec. 19 adopts the by reference the National Institute of Standards and Technology (NSIT) requirements for unit pricing.
- This change is needed in order to maintain State certification with NSIT.

**Sec. 20. 10 V.S.A. § 280a. VEDA Water Quality Initiatives**

- Sec. 20 amends the projects eligible for VEDA funding to authorize grants to ANR and AAFM for water quality initiatives.
  - Currently, VEDA is authorized to provide grants to the agencies only for stream stability and conservation reserve enhancement initiatives.
- This amendment provides VEDA more flexibility in providing the grants.

**Sec. 21. VEDA Financing of Water Quality Initiatives**

- VEDA currently has \$202,000 left over from the Clean and Clear Program.
- Sec. 21 authorizes VEDA to transfer the left over funds to ANR or AAFM for water quality programs.

**Sec. 22-25. Consolidation of the Working Lands Enterprise Board and Agricultural and Forest Products Development Board.**

**Sec. 22. 6 V.S.A. § 4604. Legislative Intent for Working Lands Enterprise Board.**

- Sec. 22 provides it is the intent of the General Assembly to create a working lands enterprise board to administer the fund and develop recommendations to accomplish the listed goals.
- Sec. 22 also adds that the board should provide priority funding to agriculture and forest product enterprises and this priority funding is not intended to exclude funding for technical assistance directly supporting enterprise development.

**Sec. 23. 6 V.S.A. § 4606. Consolidates the Agricultural and Forest Products Development Board into the Working Lands Enterprise Board.**

- Both of the existing Boards have similar goals and authority—the promotion of and furtherance of agriculture and forest products in Vermont through economic development and technical and financial assistance.
  - Although the boards have similar missions, they are disconnected and produce varying results on similar issues.
- AAFM, the Department of Forests and Parks, and the Agency of Commerce and Community Development must staff both boards, but the scope of work for the agencies has grown beyond what is feasible with 2 FTE at AAFM.
- Sec. 23 adds 5 new members to the Working Lands Enterprise Board, to reflect the members from the Agricultural Development Board.
- The Senate amended the criteria for the Board member from the forest industry by requiring the member be a representative of Vermont's forest industry who is also a forest landowner.

### **Sec. 24. 6 V.S.A. § 4607. Duties and Powers of the Working Lands Enterprise Board**

- Sec. 24 amends the WLEB's board's duties to add the duties of: 1) optimizing agricultural and forest use of Vermont lands; 2) expanding existing markets for Vermont agricultural and forest products; and 3) identifying opportunities and challenges to access infrastructure, capital, marketing, training, and research.
- Sec. 24 also provides WLEB with new authority, including: 1) the design of an ongoing public participation process; 2) the authority to request services from State economists and administrative programs; 3) the authority to obtain information from other planning entities; 4) and the authority to make recommendation to the Administration and the General Assembly on ways to improve laws, regulations, and policies for the economic development of agriculture in the State.
- Finally, Sec. 24 adds a stipulation that in establishing criteria for awarding grants and other investments, the WLEB shall prioritize assistance to persons engaged in farming or forestry before providing assistance to nonprofits that compete with persons engaged in farming or forestry.

### **Sec. 25. Repeal of the Agricultural Development Board**

- Sec. 25 Repeals the Agricultural Development Board on July 1, 2015.

### **Sec. 26. 13 V.S.A. § 365. Amendments to Shelter of Animals**

- Sec. 26 adds the following requirements for dog shelters:
  1. They must be constructed with materials that have a thermal resistance factor of 0.9 or greater;
  2. They must contain clean bedding; and
  3. They must be fully enclosed, except for a portal constructed with a baffle or similar means to keep out wind and precipitation.
- Sec. 26 also requires chains or tethers to use swivels or similar devices that prevent the chain from becoming entangled or twisted.

### **Sec. 27. 32 V.S.A. § 9741. Amendments to the Sales and Use Tax Exemptions for Agriculture Equipment.**

- Currently, agriculture equipment is exempt from sales and use tax if it is used directly and exclusively for agricultural purposes. It is a rebuttable presumption that equipment is not agricultural equipment if it is used more than four percent of the time for uses other than directly and exclusively for agriculture purposes.
- Sec. 27 changes this rebuttable presumption to 50 percent of the time. It would be presumed that equipment not used for agricultural purposes more than 50 percent of the time is not agricultural equipment.
- The Senate proposal of amendment also provides that the Sales Tax exemption for Agriculture equipment is only available to a person who is a farmer.
- The definition of farmer under Current Use is the standard a person must meet

- Farmer" means a person:

(1) who earns at least one-half of their annual gross income from the business of farming, as that term by the I.R.S.; Internal Revenue Code of 1986; or

(2) (i) who produces farm crops that are processed in a farm facility situated on land enrolled in a use value appraisal program and ; (ii) whose gross income from the sale of the processed farm products, when added to other gross income from the business of farming, equals at least one-half of the farmer's annual gross income; and (iii) who produces on the farm a minimum of 75 percent of the farm crops processed in the farm facility;

### **Sec. 28. Study of Motor Fuel Oil Prices**

- Sec 28 requires the Attorney General to study the retail price of motor fuel oil in Vermont and report to the General Assembly by December 15, 2015 any recommendations regarding market conduct, including motor fuel pricing.
- In conducting the study the Attorney General may require distributors and dealers to provide information about the ownership or control of dealers or assets related to motor fuel oil sales, volume of motor fuel oil sold or supplied, and wholesale and retail motor fuel oil prices.
- This information would be confidential and the Attorney General's authority to collect this information would cease after December 15, 2015.

### **Sec. 29. Changes to the Production and Sale of Unpasteurized Milk**

- Sec. 29 makes the following changes to the production and sale of raw milk:
  1. Clarifies the tuberculosis and brucellosis testing standards for raw milk producers. Currently, the raw milk producers must test their dairy animals annually for tuberculosis and brucellosis. This amendment would require them to test the animal before using its milk and again once every two years. The producer shall make the results available to the customer and the AAFM.
  2. Removes the requirement that a customer visit the farm prior to purchasing raw milk.
  3. Raises the cap for Tier II producers from 280 to 350 gallons a week.
  4. Amends the testing procedures to allow producers to have their milk tested in lab approved containers as opposed to the container the milk is sold in.
  5. Clarifies the procedure when a producer's milk tests above the statutory standards for total bacteria, total coliform, or somatic cell count. When a producer's monthly test exceeds the limits for either test, the producer must retest the milk within one week. If the follow up test is high, the AAFM shall suspend the production of raw milk until a sample is tested below the limits. If the retest is high the producer shall warn their consumers.
  6. Currently, a producer may deliver raw milk to a customer if the customer has purchased milk in advance. Sec. 29 adds language to clarify that "in advance" means payment is received prior to delivery at the customer's home or prior to commencement of the farmer's market.
  7. Finally, Sec 29 adds that the producer display the required sign at the farmers market where the producer delivers raw milk. Currently, the warning sign is required at the farm but not the farmer's market.

**Sec. 30. Effective Dates**

- The unpasteurized milk section takes effect on passage.
- The remainder of the act takes effect on July 1, 2015.