

Housekeeping Bill Items Session 2015

Potential Language in Priority order

Ag Resource Management

Title 6: Agriculture

Chapter 215: AGRICULTURAL WATER QUALITY – Laura DiPietro

§ 4815. Waste storage facility

(c) For purposes of this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. ~~This section does not apply to concrete slabs used for agricultural waste management.~~ (Added 2005, No. 78, § 4, eff. June 24, 2005.)

Sub-Chapter 3: Water Quality; Financial And Technical Assistance

§ 4820. Definitions

ADD

(6) "Good standing" means the participant does not have an active enforcement violation that has reached final order with the Secretary and/or the participant is in compliance with all current grant agreement or contract terms with the Agency.

§ 4821. Assistance program created; administration (b) ADD

(2) may provide technical assistance to individual farmers with the preparation of on-farm agricultural waste management plans, applications for state and federal financial assistance awards, installation of on-farm improvements, and maintenance of acceptable operating standards during the ~~term of the program grant agreement life of a state assistance award contract.~~ For this purpose, state employees of the agency shall cooperate with federal employees of the U.S. Department of Agriculture or other federal agencies. (Added 1995, No. 62, § 37, eff. April 26, 1995; amended 1999, No. 100 (Adj. Sess.), § 3, eff. May 5, 2000; 2003, No. 42, § 2, eff. May 27, 2003; 2009, No. 110 (Adj. Sess.), § 9, eff. May 18, 2010.)

§ 4822. Eligibility for state assistance - add

(3) will be constructed on a farm that is in good standing at the time of the award with the Secretary on all grant and/or contract awards and enforcement proceedings.

§ 4824. State financial assistance awards

(b) ~~Farmer contract.~~ A State grant awarded to an applicant under this subchapter shall be awarded in accordance with a State ~~contract~~ grant containing ~~contract~~ terms substantially the same as those required for receipt of a

federal award for the same purpose from the U.S. Department of Agriculture, except as provided by the Secretary by rule. (Added 1995, No. 62, § 37, eff. April 26, 1995; amended 2003, No. 42, § 2, eff. May 27, 2003; 2007, No. 112 (Adj. Sess.), § 3, eff. May 3, 2008; 2011, No. 104 (Adj. Sess.), § 28b, eff. May 7, 2012.)

§ 4826. Cost assistance for waste storage facilities

- (a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the Secretary of Agriculture, Food and Markets for cost assistance. Using state or federal funds or both, a State assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a State assistance grant shall be made in the manner prescribed by the Secretary. ~~As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section shall apply to concrete slabs used for agricultural waste management.~~
- (b) If the Secretary lacks adequate funds necessary for the cost assistance awards required by subsection (a) of this section, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. If the Emergency Board fails to provide adequate funds, the design and construction requirements for waste storage facilities under subsection 4815(b) of this title and the AAPs for groundwater, as they relate to a waste storage facility, shall be suspended for a farm with a waste storage facility subject to the requirements of subsection 4815(b) of this title until adequate funding becomes available. Suspension of the design and construction requirements of subsection 4815(b) of this title does not relieve an owner or operator of a farm permitted under section 4858 ~~or 4851~~ of this title from the remaining requirements of the owner's or operator's permit, including discharge standards, groundwater protection, nutrient management planning, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~ (Added 2005, No. 78, § 5, eff. June 24, 2005; amended 2011, No. 104 (Adj. Sess.), § 28c, May 7, 2012.)

§ 4827. Nutrient management planning; incentive grants

- (e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 ~~or 4851~~ of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263 ~~or farms permitted under section 4851 of this title.~~

(f) The Secretary may ~~contract~~ enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans.

§ 4828. Capital equipment assistance program

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by rule by the Secretary:

Sub-Chapter 4: Regulation Of Large Farm Operations

§ 4849. Recycling animal waste nutrients

In order to best use the nutrients of animal waste generated by large farm operations, the agency of agriculture, food and markets together with the department of public service shall use available resources to inform large farm operations of appropriate methods and resources available to digest and compost their animal wastes, and to capture methane for beneficial uses. (Added 1997, No. 124 (Adj. Sess.), § 1, eff. April 21, 1998; amended 2003, No. 42, § 2, eff. May 27, 2003.)

§ 4850. Definitions

For purposes of this subchapter:

(1) "Domestic fowl" means laying-hens, broilers, ducks, and turkeys, and any other number and type of fowls that the Secretary may deem to fit this category.

(2) "Livestock" means cattle, mature cows, cow/calf pairs, youngstock, heifers, bulls, swine, sheep, or horses or any other number and type of livestock that the Secretary may deem to fit this category.. (Added 1995, No. 163 (Adj. Sess.), § 17, eff. May 15, 1996; amended 2005, No. 78, § 7, eff. June 24, 2005.)

§ 4851. Permit requirements for large farm operations

b) A person shall apply for a permit in order to operate a farm which exceeds 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks if the livestock or domestic fowl are in a barn or adjacent barns owned by the same person, or if the barns share a common border or have a common waste disposal system. In order to receive this permit, the person shall demonstrate to the secretary that the farm has an adequately sized manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices adopted under this chapter and current USDA nutrient management standards.

(d) A person seeking a permit under this section shall apply in writing to the secretary. The application shall include a description of the proposed barn or expansion of livestock or domestic fowl; a proposed nutrient management plan to accommodate the number of livestock or domestic fowl the barn is designed to house **or the farm is intending to expand to**; and a description of the manure management system to be used to accommodate agricultural wastes.

(f) Before granting a permit under this section, the secretary shall make an affirmative finding that the animal wastes generated by the construction or expansion will be stored so as not to generate runoff from a 25-year, 24-hour storm event and shall be disposed of, in accordance with the accepted agricultural practices adopted under this chapter **and current USDA nutrient management standard.**

Sub-Chapter 5: Regulation Of Medium And Small Farm Operations

§ 4856. Recycling animal waste nutrients

~~In order best to use the nutrients of animal waste generated by farms to which this subchapter applies, the agency of agriculture, food and markets, together with the department of public service, shall use available resources to inform operators of such farms of appropriate methods and resources available to digest and compost their animal wastes and to capture methane for beneficial uses. (Added 2003, No. 149 (Adj. Sess.), § 8, eff. June 3, 2004.)~~

§ 4857. Definitions

For purposes of this subchapter:

(4) "Domestic fowl" means laying hens, broilers, ducks, **turkeys, and any other number and type of fowl that the Secretary may deem to fit this category.** ~~and turkeys.~~

(5) "Livestock" means cattle, **mature cows, cow/calf pairs, youngstock, heifers, bulls, swine, sheep, and horses and any other number and type of fowl that the Secretary may deem to fit this category.** (Added 2003, No. 149 (Adj. Sess.), § 8, eff. June 3, 2004.)

§ 4858. Animal waste permits

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the secretary within a period specified in the permit, and in a manner specified by the secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices **and current USDA nutrient management standards** ~~adopted under this chapter~~. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the agency of agriculture, food and markets.

The secretary of agriculture, food and markets, in consultation with the secretary of natural resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the state pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection, the secretary of agriculture, food and markets determines that the permit applicant may be discharging to waters of the state, the secretary of agriculture, food and markets and the secretary of natural resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title.

(2) (d) Medium and small farms; individual permit. The secretary may require the owner or operator of a small or medium farm to obtain an individual permit to operate after review of the farm's history of compliance, application of accepted agricultural practices, the use of an experimental or alternative technology or method to meet a state performance standard, or other factors set forth by rule. The owner or operator of a small farm may apply to the secretary for an individual permit to operate under this section. To receive an individual permit, an applicant shall in a manner prescribed by rule demonstrate that the farm has an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with accepted agricultural practices **and current USDA nutrient management standards adopted under this chapter**, including setback requirements for waste application. An individual permit shall be valid for no more than five years. Any application for an individual permit filed under this subsection shall be kept on file at the agency of agriculture, food and markets. The secretary of agriculture, food and markets, in consultation with the agency of natural resources, shall review any application for a permit under this subsection and, prior to issuance of an individual permit under this subsection, shall issue a written determination regarding whether the permit applicant has established that there will be no unpermitted discharge to waters of the state pursuant to federal regulations for concentrated animal feeding operations. If, upon review of an application for a permit under this subsection, the secretary of agriculture, food and markets determines that the permit applicant may be discharging to waters of the state, the secretary of agriculture, food and markets and the secretary of natural resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under subsection 4810(b) of this title. The secretary of natural resources may require a medium or small farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations. Coverage of a medium farm under a general permit adopted pursuant to this section or an individual permit issued to a medium or small farm under this section is rendered void by the issuance of a permit to a farm under 10 V.S.A. § 1263. (Added 2003, No. 149 (Adj. Sess.), § 8, eff. June 3, 2004; amended 2005, No. 78, § 11, eff. June 24, 2005.)

Sub-Chapter 6: Vermont **Agricultural Critical Area Seeding and Filter Strip Buffer** Program

§ 4900. Vermont **agricultural buffer** grass program

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont ~~agricultural buffer~~ **Critical Source Area seeding and Filter Strip** program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative ~~buffers and installing conservation practices in ditch networks~~ **grassed waterways and filter strips** on agricultural **crop** land **perpendicular and adjacent** to the surface waters of the state, **including ditches**. **Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a ten year period of time. Acreage that is currently managed as hay must have a prior cropping history/rotation as corn or other annual commodity crop.**

(b) ~~The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed the combined federal and state payment that the relevant agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The Incentive payments from the Vermont Agency of Agriculture, Food & Markets shall be made at the outset of a 10 year agreement to establish and/or maintain the acreage as harvestable grassed waterway or filter strip. Annually at the end of the cropping season for a nonrenewable five year period.~~

Sub-Chapter 7: Farm Agronomic Practices Program

§ 4951. Farm Agronomic Practices Program

- (a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices ~~shall~~ **may** be eligible for assistance to farms under the grant program:

Chapter 215Ag Water Quality: Sections 4812 (corrective actions) or 4811 (powers of the secretary):

- 1) Obtain authority to assess civil penalties in addition to administrative penalties for water quality violations. This will assist the Attorney General's office when we refer cases to them.
- 2) Obtain authority to require emergency administrative orders similar to ANR authority in T10 Ch.201; Section 8009.
- 3) Obtain authority to require corrective actions within the corrective action letter process. Current language states that we recommend corrective actions.
- 4) Obtain authority to reduce animal numbers and/or require animal removal in instances where the farmstead cannot handle the wastes being generated.

Title 9: Commerce and Trade

Chapter 73: WEIGHTS AND MEASURES

§ 2633. Specific powers and duties of secretary; regulations

(b) The uniform regulation for packaging and labeling, **the uniform regulation for unit pricing**, and the uniform regulation for the method of sale of commodities, except for bread, as adopted by the national conference on weights and measures, and published by the National Institute of Standards and Technology **Handbook 130, "Uniform Laws and Regulations"**, together with amendments, supplements and revisions thereto, are adopted as part of this chapter except as modified or rejected by regulation. (1967, No. 102, § 8, eff. April 14, 1967; amended 1973, No. 22, § 1; 1977, No. 37; 1991, No. 80, § 1; 1991, No. 227 (Adj. Sess.), § 7; 1993, No. 74, § 6; 2003, No. 42, § 2, eff. May 27, 2003.)

Title 6 Chapter 1 §1 (a)(13)

(13) notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such multiyear licensure, permit, registration, or certificate on a pro-rated basis which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the secretary where the annual fee is more than \$125.00. **The agency will only provide refunds for overpayments for license, permits, registrations or certificates that are greater than \$25.**

Title 10 : Conservation And Development Chapter 12 : Vermont Economic Development Authority

Subchapter 10: Vermont Jobs Fund

§ 280a. Eligible projects; authorized financing programs

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding **stream stability and conservation reserve enhancement environmental water quality** initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate.

Title 6 Chapter 162 and Chapter 207

Merge VT Agricultural Development Board and Working Lands Enterprise Board

Act 142, passed in the 2012 legislative session, created the Working Lands Enterprise Board (WLEB) and Initiative, and added the forestry sector to the Vermont Agricultural Development Board to become the Vermont Agricultural and Forest Products Board (VAFPDB). The WLEB is an impact investment organization whose mission is to grow the economies, cultures, and communities of Vermont's working landscape by making essential, catalytic investments in critical leverage points of the Vermont farm and forest economy. The VAFPDB is charged with making recommendations to Vermont policy makers on the adoption and amendment of laws, regulations, and governmental policies that affect agricultural and forest products in Vermont. Both boards operate with administrative support from the VT Agency of Agriculture, Food and Markets (VAAFAM).

Each board has a broad charge and goals; the administrative scope of work has grown beyond what is feasible with 2 FTE at VAAFAM. In addition to the administrative inefficiencies of coordinating two sets of agendas and meeting logistics, the structural inefficiencies of two boards with similar missions and constituencies working in parallel but disconnected by function and operation, results in an unequal allocation of resources and as well as board outcomes.

The three State Agencies/Departments designated in statute to serve on both boards – Agriculture, Commerce and Forests, Parks and Recreation, and members of both boards, have recommended moving forward with a merger of the two boards. The newly configured Board would have two primary committees – a Policy Development Committee, and an Investment and Grant Making Committee. The Secretary of Agriculture would continue as the Board Chair, and a Vice Chair would be elected from among the citizen members of the Board. The Vice Chair would chair the Policy Committee. The proposed structure would include a total of 17 voting members and 3 non-voting members: 3 State Agencies; 4 Agriculture representatives; 4 Forestry sector representatives; 1 Maple representative; 5 Cross-sector representatives (including marketing, financing, education, economic development, and land use); and 3 non-voting members (VEDA, VSJF, VHCB).

§ 2744a. Drugs

(a) No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

~~(1) In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer or handler for a period of up to two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer from selling milk in this state. No handler or dealer shall accept milk from a producer whose ability to sell milk is suspended or terminated.~~

~~(2) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary~~

may accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's or handler's control that occurred as a result of purchasing the contaminated milk, as an equivalent penalty.

(1) In the event that milk from a dairy producer contains a drug residue:

- a. No more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative.
- b. If a second drug residue violation occurs within twelve months of the first violation no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of one days of milk production assessed.
- c. If a third drug residue violation occurs within twelve months of the first violation no more milk from that producer shall be received by any milk dealer or handler until a sample of at least one complete milking has been collected and found negative. The producer shall have an administrative penalty equal to the value of two days of milk production assessed. A hearing shall be warned to determine if the producer will be allowed to continue to ship milk.

(2) No handler or dealer shall accept milk from a producer after a drug residue violation has occurred until a sample of at least one complete milking has been found negative or ~~whose~~ from a producer whose ability to sell milk is suspended or terminated.

(3) In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty equal to the value of the milk that would have been lost during the suspension. A producer who fails to pay an administrative penalty issued under this section, within 30 days of when it is issued, shall have his or her ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may accept the assessment by the milk dealer or handler, against the producer.

~~(3)~~ (4) Notwithstanding the provisions of subsection (c) of this section, the secretary may at any time issue an emergency order prohibiting a producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell livestock for slaughter which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the United States Food and Drug Administration in the Code of Federal Regulations at the time of sale, the secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation and may require the farm to participate in a program approved by the Agency intended to mitigate further selling of animals for food that contain violative drug residues.

(c) Before issuing an order or administrative penalty under this section, the secretary shall provide the producer and the handler or dealer an opportunity for hearing.
