

Proposed Edits to 6 V.S.A. §§ 21, 852-855

§ 21. Authority to address public health hazards and food safety issues

(a) As used in this section:

- (1) “Adulterated” shall have the same meaning as in 18 V.S.A. § 4059 and shall include adulteration under rules adopted under 18 V.S.A. chapter 82.
- (2) “Emergency” means any natural disaster, weather-related incident, health- or disease-related incident, resource shortage, plant pest outbreak, accident, or fire that poses a threat or may pose a threat, as determined by the Secretary, to health, safety, the environment, or property in Vermont.
- (3) “Farm” means a site or parcel on which farming is conducted.
- (4) “Farming” shall have the same meaning as in 10 V.S.A. § 6001(22).
- (5) “Public health hazard” means the potential harm to the public health by virtue of any condition or any biological, chemical, or physical agent. In determining whether a health hazard is public or private, the Secretary shall consider at least the following factors:
 - (A) the number of persons at risk;
 - (B) the characteristics of the person or persons at risk;
 - (C) the characteristics of the condition or agent that is the source of potential harm;
 - (D) the availability of private remedies;
 - (E) the geographical area and characteristics thereof where the condition or agent that is the source of the potential harm or the receptors exists; and
 - (F) the policy of the Agency of Agriculture, Food and Markets as established by rule or procedure.
- (6) “Raw agricultural commodity” means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.
- (7) “Secretary” means the Secretary of Agriculture, Food and Markets.

(b) The Secretary shall have the authority to:

- (1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;
- (2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and
- (3) cooperate with the Department of Health and other State and federal agencies regarding:
 - (A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, Public Law 111-353, 21 U.S.C. §§ 2201-2252, to farms, farm products, or value-added products produced in the State.

6 V.S.A. § 851

§ 851. Definitions

As used in this chapter:

- (1) "Agency" means the Agency of Agriculture, Food and Markets.
- (2) "Farm" means lands that are owned or leased by a person engaged in any of the activities stated in 10 V.S.A. § 6001(22).
- (3) "Produce" shall have the same meaning as used in 21 C.F.R. § 112.3.
- (4) "Produce farm" means any farm engaged in the growing, harvesting, packing, or holding of produce.
- (5) "Secretary" means the Secretary of Agriculture, Food and Markets.

6 V.S.A. § 852

§ 852. Authority; enforcement

~~(a)~~ ~~(a)~~ The Secretary may enforce in the State the requirements of the ~~rules adopted under the federal FDA~~ Food Safety Modernization Act, ~~Public Law No. 111-353, for s~~Standards for ~~g~~Growing, ~~H~~harvesting, ~~P~~packing, and ~~h~~Holding of ~~P~~produce for ~~human~~Human ~~e~~Consumption, 21 C.F.R. part 112, ~~as well as rules adopted under this chapter.~~

(b) (1) The Secretary may issue orders necessary to effectuate the purposes of this chapter, including, but not limited to, orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce. The Secretary may also take any action authorized under Chapter 1 of this Title.

a. The order shall include:

- i. A statement of the legal authority and jurisdiction under which the hearing is to be held;**
- ii. A statement of the matter at issue, including reference to the particular statute allegedly violated and a factual description of the alleged violation;**
- iii. The proposed administrative action, e.g., stop sale, recall.**
- iv. A statement that the order is effective upon receipt unless stayed on request for a hearing filed within 15 days.**

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b. Any person who receives an administrative order pursuant to this section shall be deemed to have waived the right to a hearing, unless within 15 days of the receipt of the order, the person requests a hearing in writing.

(2) Any person aggrieved by any such order may timely request a hearing before the Secretary in accordance with 3 V.S.A. Chapter 25.

(3) Any person aggrieved by a final decision of the Secretary may appeal de novo to the superior court within 30 days of the final decision of the Secretary.

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Comment [PK1]: Same as above

(bc) The Agency may collaborate with the Vermont Department of Health regarding application of the federal-FDA Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and the rules adopted under this chapter. Food Safety Modernization Act and the rules adopted thereunder.

(ed) The Secretary shall carry out the provisions of this chapter using:

- (1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;
- (2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and
- (3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

6 V.S.A. § 853

§ 853. Farm inspections

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

- (A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or
- (B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section-Section 21 of this titleTitle.

~~(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

(eb) The Secretary may coordinate with other State or federal agencies and organizations to carry out inspections at or near the same time on a given produce farm.

6 V.S.A. § 854

§ 854. Records

The owner or operator of a produce farm shall maintain records required by the federal-FDA Food Safety Modernization Act, rules adopted thereunder, and rules adopted under this chapter and shall make those records available to the Agency upon request.

§ 855. Rules

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement this chapter.

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