

TO THE HONORABLE SENATE

The Committee on Agriculture to which was referred House Bill No. H. 525, entitled "An act relating to miscellaneous agricultural subjects"

respectfully reports that it has considered the same and recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Seed Sales; Reporting \* \* \*

Sec. 1. 6 V.S.A. § 642 is amended to read:

§ 642. DUTIES AND AUTHORITY OF THE SECRETARY

(a) The Secretary shall enforce and carry out the provisions of this subchapter, including:

(1) Sampling, inspecting, making analysis of, and testing seeds subject to the provisions of this subchapter that are transported, sold, or offered or exposed for sale within the State for sowing purposes. The Secretary shall notify promptly a person who sells, offers, or exposes seeds for sale and, if appropriate, the person who labels or transports seeds, of any violation and seizure of the seeds, or order to cease sale of the seeds under section 643 of this title.

(2) Making or providing for purity and germination tests of seed for farmers and dealers on request and to fix and collect charges for the tests made.

(3) Cooperating with the U.S. Department of Agriculture and other agencies in seed law enforcement.

(4) Prior to sale, distribution, or use of a new genetically engineered seed in the State and after consultation with a seed review committee convened under subsection (c) of this section, review the traits of the new genetically engineered seed. The Secretary may prohibit, restrict, condition, or limit the sale, distribution, or use of the seed in the State when determined necessary to prevent an adverse effect on agriculture in the State.

(b) The Secretary shall establish rules to carry out the provisions of this subchapter, including those governing the methods of sampling, inspecting, analyzing, testing, and examining seeds and reasonable standards for seed.

(c)(1) The Secretary shall convene a seed review committee to review the seed traits of a new genetically engineered seed proposed for sale, distribution, or use in the State.

(2) A seed review committee convened under this subsection shall be composed of the Secretary of Agriculture, Food and Markets or designee and the following members appointed by the Secretary:

- (A) a certified commercial agricultural pesticide applicator;
- (B) an agronomist or relevant crop specialist from the University of Vermont or Vermont Technical College;
- (C) a licensed seed dealer; and
- (D) a member of a farming sector affected by the new genetically engineered seed.

(3) A majority of the seed review committee shall approve of the sale, distribution, or use of a new genetically engineered seed prior to sale, distribution, or use in the State. In order to ensure the appropriate use or traits of a new genetically engineered seed in the State, a seed review committee may propose to the Secretary limits or conditions on the sale, distribution, or use of a seed or recommend a limited period of time for sale of the seed.

Sec. 2. 6 V.S.A. § 648 is amended to read:

§ 648. INSPECTIONS

\* \* \*

(g) For seeds sold in Vermont that contain genetically engineered material, the manufacturer or processor distributing such seed in Vermont shall report annually on January or before February 15 to the Secretary on forms supplied by the Secretary regarding sales during the previous calendar year.

(h) For seeds sold in Vermont, the manufacturer or processor distributing the seed in Vermont shall report annually on or before February 15 to the Secretary on forms supplied by the Secretary regarding the quantity of treated article seed and the quantity of untreated seed sold in Vermont during the previous calendar year. As used in this subsection, "treated article seed" means an agricultural seed, flower seed, or vegetable seed that is a treated article pesticide as that term is defined in section 1101 of this title.

\* \* \* Dairy Operations \* \* \*

Sec. 3. 6 V.S.A. § 2722 is amended to read:

§ 2722. APPLICATION

Applications shall be completely filled out and sworn to by the applicant or a partner or officer thereof and in case of renewal shall be filed with the Secretary on or before July 15 of each year. New handlers may apply for a license at any time. Renewal applications not received on or before August 15 shall be assessed a late fee of \$100.00. The application for a handler's license shall provide the following information and such other information as the Secretary by regulation shall reasonably require:

\* \* \*

\* \* \* Raw Milk \* \* \*

Sec. 4. 6 V.S.A. §§ 2777 and 2778 are amended to read:

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) Unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when ~~delivery is arranged in conformance with~~ sale or delivery off the farm is allowed under section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals ~~which~~ that are subject to appropriate veterinary care, including rabies vaccination according to accepted vaccination standards established by the Agency.

(B) A producer shall ensure that all ruminant animals are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the sale of unpasteurized milk.

(C) A producer shall ensure that dairy animals entering the producer's milking herd, including those born on the farm, are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the animal's milk being sold to consumers, unless:

(i) The dairy animal has a negative U.S. Department of Agriculture approved test for brucellosis within 30 days prior to importation into the State, in which case a brucellosis test shall not be required;

(ii) The dairy animal has a negative U.S. Department of Agriculture approved tuberculosis test within 60 days prior to importation into the State, in which case a tuberculosis test shall not be required;

(iii) The dairy animal leaves and subsequently reenters the producer's herd from a state or Canadian province that is classified as "certified free" of brucellosis and "accredited free" of tuberculosis or an equivalent classification, in which case a brucellosis or tuberculosis test shall not be required.

(D) A producer shall post test results and verification of vaccinations on the farm in a prominent place and make results available to customers and the Agency.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and, when available, e-mail addresses.

(C) The producer shall maintain a list of transactions for at least one year ~~which~~ that shall include customer names, the date of each purchase, and the amount purchased.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk, such as cattle, goat, sheep, or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. ~~Not pasteurized.~~ Keep Refrigerated." on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "~~This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.~~" "Consuming raw unpasteurized milk may cause illness, particularly in children, seniors, persons with weakened immune systems, and pregnant women." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer. All farms shall be able to demonstrate to the Agency's inspector that they have the capacity to keep the amount of milk sold on the highest volume day stored and kept at 40 degrees Fahrenheit or lower in a sanitary and effective manner.

(4) Storage. An unpasteurized milk bulk storage container shall be

cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers ~~must~~ shall be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized daily, a written log of dates and times when milking, cleaning, and sanitizing occur shall be posted in a prominent place and be easily visible to customers.

(5) Shelf life. Unpasteurized milk shall not be transferred to a consumer after four days from the date on the label.

(6) Customer inspection and notification.

(A) The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B)(i) A sign that is not smaller than 8 and one half inches by 11 inches with the words “Unpasteurized (Raw) Milk. ~~Not pasteurized. Keep Refrigerated.~~” and ~~“This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.”~~ “Consuming raw unpasteurized milk may cause illness, particularly in children, seniors, persons with weakened immune systems, and pregnant women.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. ~~The lettering shall be at least one inch in height and shall be clearly readable.~~

(ii) The Secretary of Agriculture, Food and Markets shall design a template of the sign required under subdivision (6)(B)(i) of this section and shall post the template to the website of the Agency of Agriculture, Food and Markets for use by producers.

(e) A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk ~~only~~ from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver or sell in accordance with section 2778 of this title.

(f) A producer selling more than 87.5 gallons to 350 gallons (more than 350 to 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The Agency shall annually inspect the producer's facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers ~~which~~ that have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer's container is labeled with the customer's name and address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

(i) total bacterial (aerobic) count: 15,000 cfu l (cattle and goats);

(ii) total coliform count: 10 cfu l (cattle and goats); and

(iii) somatic cell count: 225,000 l (cattle); 500,000 l (goats).

(B) The producer shall ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(D) The Secretary shall issue a warning to a producer when any two out of four consecutive, monthly tests exceed the limits. The Secretary shall have the authority to suspend unpasteurized milk sales if any three out of five consecutive, monthly tests exceed the limits until an acceptable sample result is achieved. The Secretary shall not require a warning to the consumer based on a high test result.

(4) Registration. Each producer operating under this subsection shall register with the Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Off-farm sale and delivery. The sale and delivery of unpasteurized milk is permitted ~~and shall be in compliance with~~ as provided for under section 2778 of this title.

(g) The sale of more than 350 gallons (1,400 quarts) of unpasteurized milk

in any one week is prohibited.

§ 2778. SALE OR DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) ~~Delivery~~ Sale or delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) ~~Delivery~~ Sale or delivery of unpasteurized milk off the farm shall conform to the following requirements:

(1) ~~Delivery shall be to a customer who has purchased milk in advance either by a one-time payment or through a subscription. Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery.~~ Vendors shall verbally inform each customer of the need to keep milk refrigerated.

(2) A producer may sell or deliver unpasteurized milk directly to the customer:

(A) at the customer's home or may deliver it to the customer's home when delivery is into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer; or

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor.

(3) During delivery or storage prior to sale, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery or storage prior to sale, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

(d) ~~Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:~~

(1) ~~include the producer's name and proof of registration;~~

(2) ~~identify the farmers' market or markets where the producer will deliver milk; and~~

(3) ~~specify the day or days of the week on which delivery will be made~~

at a farmers' market.

(e) A producer selling or delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

\* \* \* Farm-to-School; Local Food Grants \* \* \*

Sec. 5. 6 V.S.A. § 4721 is amended to read:

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, a consortium of school districts, ~~or a registered or licensed child care providers provider, or an organization administering or assisting the development of farm-to-school programs~~ may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in child nutrition programs;

(2) fund items, including local food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections;

(3) fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, child nutrition personnel, organizations administering or assisting the development of farm-to-school programs, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered child care providers in developing a farm-to-school program; and

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, child nutrition staff, educators, organizations administering or assisting the development of farm-

to-school programs, and farm-to-school technical service providers jointly shall adopt procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools, school districts, and registered or licensed child care providers that are developing farm-to-school connections and education, that indicate a willingness to make changes to their child nutrition programs to increase student access and participation, and that are making progress toward the implementation of the Vermont School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than ~~\$15,000.00~~ 20 percent of the total annual amount available for granting except that a grant award to the following entities may, at the discretion of the Secretary of Agriculture, Food and Markets, exceed the cap:

(1) Farm-to-School service providers; or

(2) school districts or consortiums of school districts that completed merger under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46 on or before July 1, 2019, provided that the grant is used for the purpose of expanding Farm-to-School projects to additional schools within the new school district.

\* \* \* Agricultural Water Quality \* \* \*

Sec. 6. 6 V.S.A. § 4802 is amended to read:

§ 4802. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farming” ~~shall have~~ has the same meaning as used in 10 V.S.A. § 6001(22).

(3) “Good standing” means a participant in a program administered under this chapter:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; and

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

~~(3)~~(4) “Healthy soil” means soil that has a well-developed, porous

structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(4)(5) "Manure" means livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, or soil.

(5)(6) "Secretary" means the Secretary of Agriculture, Food and Markets.

(6)(7) "Top of bank" means the point along the bank of a stream where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during an annual flood event. Annual flood event shall be determined according to the Agency of Natural Resources' Flood Hazard Area and River Corridor Protection Procedure.

(7)(8) "Waste" or "agricultural waste" means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated ~~milkhouse~~ milk house waste; and any other farm waste as the term "waste" is defined in 10 V.S.A. § 1251(12).

(8)(9) "Water" shall ~~shall~~ has have the same meaning as used in 10 V.S.A. § 1251(13).

Sec. 7. 6 V.S.A. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) ~~On or before September 15, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~file under 3 V.S.A. § 841 a final proposal of a rule amending~~ maintain the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the ~~amendments to the~~ required agricultural practices shall:

\* \* \*

(b) ~~On or before January 15, 2018, the~~ The Secretary of Agriculture, Food and Markets shall ~~amend by rule~~ maintain the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts

to water quality from the subsurface tile drain.

Sec. 8. 6 V.S.A. § 4811 is amended to read:

§ 4811. POWERS OF SECRETARY

The Secretary of Agriculture, Food and Markets in furtherance of the purposes of this chapter may:

(1) Make, adopt, revise, and amend reasonable rules which define practices described in section 4810 of this title as well as other rules deemed necessary to carry out the provisions of this chapter.

(2) Appoint assistants, subject to applicable laws, to perform or assist in the performance of any duties or functions of the Secretary under this chapter.

(3) Enter any lands, public or private, and review and copy any land management records as may be necessary to carry out the provisions of this chapter.

(4) Sign memorandums of understanding between agencies when the Secretary of Agriculture, Food and Markets agrees it is necessary for the success of the program.

(5) Solicit and receive federal or private funds.

(6) Cooperate fully with the federal government or other agencies in the operation of any joint federal-state programs concerning the regulation of agricultural non-point source pollution.

(7) Establish programs to improve agricultural water quality.

(8) Provide grants or contracts from agricultural water quality programs established under this chapter, or by the Secretary of Agriculture, Food and Markets for the purpose of providing technical and financial assistance in preventing agricultural pollution from entering groundwater and waters of the State, provided that the Secretary shall only use capital funding available to the Agency for water quality programs or projects that are eligible for capital assistance.

Sec. 9. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

As used in this subchapter:

\* \* \*

(6) ~~“Good standing” means the participant:~~

~~(A) does not have an active enforcement violation that has reached a final order with the Secretary; or~~

~~(B) is in compliance with all terms of a current grant agreement or~~

contract with the Agency. [Repealed.]

Sec. 10. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to ~~contract applicators, nonprofit organizations, and farms~~ to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide ~~farms, nonprofit organizations, and custom applicators in Vermont~~ with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

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

~~(1) First priority. Priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, multiple farms; equipment to be used for phosphorus reduction, separation, or treatment equipment providers; and projects managed by nonprofit organizations and projects that are located in descending order within the boundaries of:~~

- ~~(A)(1) the Lake Champlain Basin;~~
- ~~(B)(2) the Lake Memphremagog Basin;~~
- ~~(C)(3) the Connecticut River Basin; and~~
- ~~(D)(4) the Hudson River Basin.~~

~~(2) Next priority shall be given to capital equipment to be used at a farm site that is located in descending order within the boundaries of:~~

- ~~(A) the Lake Champlain Basin;~~
- ~~(B) the Lake Memphremagog Basin;~~
- ~~(C) the Connecticut River Basin; and~~
- ~~(D) the Hudson River Basin.~~

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal reduction, separation, or treatment technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal reduction, separation, or treatment technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the

applicant, and shall not exceed \$300,000.00.

Sec. 11. 6 V.S.A. § 4989 is amended to read:

§ 4989. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN  
TECHNICAL SERVICE PROVIDERS

(a) ~~On or before July 1, 2019, the~~ The Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a nutrient management technical service provider shall be certified to operate within the State. The certification process shall require a nutrient management technical service provider to complete eight hours of training over each five-year period regarding:

- (1) calculating manure and agricultural waste generation;
- (2) taking soil and manure samples;
- (3) identifying and creating maps of all natural resource features;
- (4) use of erosion calculation tools;
- (5) reconciling plans using records;
- (6) use of nutrient index tools; and
- (7) requirements within the Required Agricultural Practices, Medium Farm Operation rules and general permit, and Large Farm Operation rules.

(b) ~~Beginning on July 1, 2019, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets~~ Beginning 45 days after the effective date of the rule adopted by the Secretary of Agriculture, Food and Markets under subsection (a) of this section to regulate nutrient management technical service providers, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets.

\* \* \* Environmental Stewardship Program \* \* \*

Sec. 12. 6 V.S.A. chapter 215, subchapter 7A is added to read:

Subchapter 7A. Regenerative Farming

§ 4961. PURPOSE

The purposes of this subchapter are to:

- (1) enhance the economic viability of farms in Vermont;
- (2) improve the health and productivity of the soils of Vermont;
- (3) encourage farmers to implement regenerative farming practices;
- (4) reduce the amount of agricultural waste entering the waters of

Vermont:

(5) enhance crop resilience to rainfall fluctuations and mitigate water damage to crops, land, and surrounding infrastructure;

(6) promote cost-effective farming practices;

(7) reinvigorate the rural economy; and

(8) help the next generation of Vermont farmers learn regenerative farming practices so that farming remains integral to the economy, landscape, and culture of Vermont.

§ 4962. DEFINITIONS

As used in this subchapter:

(1) “Certified Vermont Environmental Steward” means an owner or operator of a farm who has achieved the thresholds for the Vermont Environmental Stewardship Program to be certified as a farm that improves soil health and contributes to improving water quality.

(2) “Regenerative farming” means a series of cropland management practices that:

(A) contributes to generating or building soils and soil fertility and health;

(B) increases water percolation, increases water retention, and increases the amount of clean water running off farms;

(C) increases biodiversity and ecosystem health and resiliency; and

(D) sequesters carbon in agricultural soils.

§ 4963. REGENERATIVE FARMING; VERMONT ENVIRONMENTAL STEWARDSHIP PROGRAM

(a) Establishment of program. There is created within the Agency of Agriculture, Food and Markets the Vermont Environmental Stewardship Program (VESP) to provide technical and financial assistance to Vermont farmers seeking to implement regenerative farming practices to achieve certification as a Certified Vermont Environmental Steward.

(b) Program standards; application. The Secretary of Agriculture, Food and Markets shall establish by procedure standards for certification as a Certified Environmental Steward. Application for certification shall be made in the manner required by the Secretary of Agriculture, Food and Markets.

(c) Program services. The VESP shall provide the following services to farmers voluntarily seeking to transition to achieve certification as a Certified Vermont Environmental Steward:

(1) information and education regarding the requirements for certification, including the method, timeline, and process of certification;

(2) technical assistance in completing any required application for certification;

(3) technical assistance in developing plans and implementing practices to achieve certification from the VESP; and

(4) technical assistance in complying with the requirements of the VESP after a farm is certified.

(d) Financial assistance; eligibility. An owner or operator of a farm participating in the VESP shall be eligible for financial assistance from existing Agency of Agriculture, Food and Markets financial assistance programs for costs incurred in implementing any of the practices required for certification as a Certified Environmental Steward.

(e) Revocation of certification. The Secretary may, after due notice and hearing, revoke a certification issued under this section when the owner or operator of a certified farm fails to comply with the standards for certification established under subsection (b) of this section.

(f) Administrative penalty; falsely advertising. The Secretary may assess an administrative penalty of up to \$1,000.00 against the owner or operator of a farm who knowingly advertises as a Certified Environmental Steward when not certified by the Secretary.

### Sec. 13. FUNDING VERMONT ENVIRONMENTAL STEWARDSHIP PROGRAM

In addition to the existing capital and noncapital financial assistance that may be available to a farmer from the Agency of Agriculture, Food and Markets, the Agency of Agriculture, Food and Markets separately may use funds available to the Agency and eligible for use for water quality programs or projects to provide noncapital financial incentives to Vermont farmers participating in the Vermont Environmental Stewardship Program to implement regenerative farming practices to achieve certification as a Certified Vermont Environmental Steward.

\* \* \* Conservation Reserve Enhancement Program \* \* \*

Sec. 14. 6 V.S.A. § 4829 is added to read:

#### § 4829. CONSERVATION RESERVE ENHANCEMENT PROGRAM

(a) The Conservation Reserve Enhancement Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State or federal financial assistance for the implementation of alternative nutrient reduction practices that improve soil quality, improve nutrient

retention, and reduce agricultural waste discharges. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

- (1) riparian forest buffers;
- (2) grassed waterways;
- (3) grassed filter strips; or
- (4) other practices approved by the Secretary and administered through a memorandum of understanding with the Commodity Credit Corporation.

(b) Grant agreements entered into under this section shall at a minimum have a term of 15 years in duration and can include permanent easements.

(c)(1) The Agency of Agriculture, Food and Markets shall use capital funding available to the Agency and eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivisions (a)(1)–(3) of this section.

(2) The Agency shall use noncapital funds eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivision (a)(4) of this section.

\* \* \* Agriculture Environmental Management Program \* \* \*

Sec. 15. 6 V.S.A. § 4830 is added to read:

§ 4830. AGRICULTURAL ENVIRONMENTAL MANAGEMENT PROGRAM

(a) The Agricultural Environmental Management Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance to alternatively manage their farmstead, cropland, and pasture in a manner that will address identified water quality concerns that, traditionally, would have been wholly or partially addressed through federal, State, and landowner investments in BMP infrastructure, in agronomic practices, or both. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

- (1) conservation easements;
- (2) land acquisition;
- (3) farm structure decommissioning;
- (4) site reclamation; or
- (5) issue a grant as an in-lieu payment not to exceed \$200,000.00 as

an alternative to the best management practice program implementation to otherwise address the same conservation issues for an equivalent or longer term.

(b) The Agency of Agriculture, Food and Markets shall use funds available to the Agency and eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers, provided that the Agency may use capital funds to provide financial assistance for practices approved under subdivisions (a)(1)–(4) of this section if the practice is:

(1) performed in conjunction with a term agreement of not less than 15 years in duration or a permanent easement protecting the investment; and

(2) abating a water quality resource concern on a farm; and

(3) the Agency may use capital funds to provide financial assistance for a practice approved under subdivision (a)(5) of this section only upon the approval of the State Treasurer.

\* \* \* Emergency Environmental Remediation \* \* \*

Sec. 16. 6 V.S.A. § 21 is amended to read:

§ 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 or protect the environment, including:

(A) Expending up to \$25,000.00 in funding from the Agency of Agriculture, Food and Markets' budget to remediate the issue when there are no other financial resources available, and the Secretary has determined the expenditure is necessary for either public health or the environment.

(B) The Secretary may attempt to recover monies expended under subdivision (b)(1)(A) of this subsection from the responsible party;

(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, Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

\* \* \* Slaughter Facilities; Records \* \* \*

Sec. 17. 6 V.S.A. § 1152 is amended to read:

§ 1152. ADMINISTRATION; INSPECTION; TESTING; RECORDS

(a) The Secretary shall be responsible for the administration and enforcement of the ~~livestock disease control program~~ Livestock Disease Control Program. The Secretary may appoint the State Veterinarian to manage the ~~program~~ Program, and other personnel as are necessary for the sound administration of the ~~program~~ Program.

(b) The Secretary shall maintain a public record of all permits issued and

of all animals tested by the Agency of Agriculture, Food and Markets under this chapter for a period of five years.

(c) The Secretary may conduct any inspections, investigations, tests, diagnoses, or other reasonable steps necessary to discover and eliminate contagious diseases existing in domestic animals in this State. The Secretary shall investigate any reports of diseased animals, provided there are adequate resources. In carrying out the provisions of this part, the Secretary or his or her authorized agent may enter any real estate, premises, buildings, enclosures, or areas where animals may be found for the purpose of making reasonable inspections and tests. A livestock owner or the person in possession of the animal to be inspected, upon request of the Secretary, shall restrain the animal and make it available for inspection and testing.

(d) The Secretary may contract and cooperate with the U.S. Department of Agriculture, other federal agencies or states, and accredited veterinarians for the control and eradication of contagious diseases of animals. The Secretary shall consult and cooperate, as appropriate, with the Commissioners of Fish and Wildlife and of Health regarding the control of contagious diseases.

(e) If necessary, the Secretary shall set priorities for the use of the funds available to operate the ~~program~~ Program established by this chapter.

(f) Any commercial slaughterhouse operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under this subsection available to the Agency upon request.

(g) Records produced or acquired by the Secretary under this chapter shall be available to the public, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

Sec. 18. 6 V.S.A. § 1470 is added to read:

§ 1470. RECORDS

(a) A commercial slaughter facility operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under

this subsection available to the Agency upon request.

(b) Records produced or acquired by the Secretary under this chapter shall be available to the public for inspection and copying, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

\* \* \* Commercial Feed; Raw Milk \* \* \*

Sec. 19. 6 V.S.A. § 329 is amended to read:

§ 329. RULES

(a) The Secretary is authorized to adopt rules establishing procedures or standards, or both, for product registration, labeling, adulteration, reporting, inspection, sampling, guarantees, product analysis, or other conditions necessary for the implementation and enforcement of this chapter. Where appropriate, the rules shall be consistent with the model rules developed by the Association of American Feed Control Officials and regulations adopted by the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.).

(b) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, together with any regulation promulgated pursuant to the authority of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), relevant to the subject matter of this chapter, are hereby adopted as rules under this chapter, together with all subsequent amendments. The Secretary may, by rule, amend or repeal any rule adopted under this subsection.

(c) A person shall not manufacture or distribute raw milk as a commercial feed in the State for any species unless all of the following conditions are satisfied:

(1) the raw milk shall be decharacterized using a sufficient method to render it distinguishable from products packaged for human consumption;

(2) raw animal feed or pet food product shall be packaged in containers that are labeled "not for human consumption";

(3) raw animal feed or pet food products shall not be stored or placed for retail sale with, or in the vicinity of, milk or milk products intended for human consumption; and

(4) notwithstanding any rule adopted under subsection (b) of this section to the contrary of the provisions of this subsection, the manufacture and

distribution of raw animal feed or pet food products shall comply with the requirements of this chapter.

\* \* \* Clean Water Fund Audit \* \* \*

Sec. 20. 10 V.S.A. § 1389b is amended to read:

§ 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forestry, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources, Fish, and Wildlife a program audit of the Clean Water Fund. The audit shall include:

(1) a summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) an assessment of the capacity of the Department of Environmental Conservation to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(6) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Pumpout Tank \* \* \*

Sec. 21. 10 V.S.A. § 1979 is amended to read:

(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing or proposed buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:

(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(C) the design flows do not exceed 600 gallons per day or the existing or proposed building or structure shall not be used to host events on more than 28 days in any calendar year.

(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years.

(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.

(B) All permit conditions, including the financial surety requirement of subdivision (2) of this subsection (b), shall apply to a subsequent owner.

(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.

\* \* \* Wetlands \* \* \*

Sec. 22. LEGISLATIVE STUDY COMMITTEE ON WETLANDS;  
REPORT

(a) Creation. There is created the Legislative Study Committee on Wetlands to clarify State wetlands statutes and permitting under the statutes.

(b) Membership. The Legislative Study Committee on Wetlands shall be composed of the following members:

(1) two current members of the Senate Committee on Agriculture, who shall be appointed by the Committee on Committees;

(2) two current members of the Senate Committee on Natural Resources and Energy, who shall be appointed by the Committee on Committees;

(3) two current members of the House Committee on Agriculture and

Forestry, who shall be appointed by the Speaker of the House; and

(4) two current members of the House Committee on Natural Resources, Fish and Wildlife, who shall be appointed by the Speaker of the House.

(c) Assistance. The Legislative Study Committee on Wetlands shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 15, 2020, the Legislative Study Committee on Wetlands shall submit a written report to the General Assembly to update and clarify the requirements for the regulation of wetlands under State statute. The Study Committee shall submit the report in the form of draft legislation and shall include:

(1) whether the definition of "wetlands" should be amended, including whether the definition of wetlands under State wetlands law should be based on objective criteria such as size or location;

(2) the standard by which the State shall review a permit application for the disturbance of a wetland or wetland buffer;

(3) proposed exemptions from regulation under State wetlands law for specific activities, including:

(A) whether land on which farming or a subset of farming is conducted should be excluded from the definition of "wetlands" subject to State regulation or should be exempt from wetlands permitting under State law; and

(B) whether the exemptions under State wetlands law should be consistent or similar to the exemptions under federal wetlands law; and

(4) proposed permitting fees for wetlands permits.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Legislative Study Committee on Wetlands to occur on or before August 1, 2019.

(2) The Legislative Study Committee on Wetlands shall select a chair from among its members at the first meeting.

(3) A majority of the Legislative Study Committee on Wetlands shall constitute a quorum.

(4) The Legislative Study Committee on Wetlands shall cease to exist on January 15, 2020.

(g) Compensation and reimbursement. For attendance at meetings during

adjournment of the General Assembly, a legislative member of the Legislative Study Committee on Wetlands shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 23. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

\* \* \*

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands.

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers.

\* \* \*

(H) Maximum fee, for the construction of any water quality improvement project in any Class II wetland or buffer, \$200.00 per application. As used in this subdivision, "water quality improvement project" means projects specifically designed and implemented to reduce pollutant loading in accordance with the requirements of a Total Maximum Daily Load Implementation Plan or Water Quality Remediation Plan, or pursuant to a plan for reducing pollutant loading to a waterbody. These projects include:

(i) the retrofit of impervious surfaces in existence as of January 1, 2019 for the purpose of addressing stormwater runoff;

(ii) the replacement of stream-crossing structures necessary to improve aquatic organism passage, stream flow, or flood capacity;

(iii) construction of the following conservation practices on farms, when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets' Required Agricultural Practices:

(I) construction of animal trails and walkways;

(II) construction of access roads;

(III) designation and construction of a heavy-use protection area;

(IV) construction of artificial wetlands; and

(V) the relocation of structures, when necessary, to allow for the management and treatment of agricultural waste, as defined in the Required Agricultural Practices Rule.

(I) Maximum fee for the construction of a permanent structure used for farming, \$5,000.00, provided that the maximum fee for waste storage facility or bunker silo shall be \$200.00 when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets' Required Agricultural Practices. As used in this subdivision, "permanent structure," "farming," and "waste storage facility" have the same meaning as in 10 V.S.A. § 902.

Sec. 24. WETLAND SCIENTIST LICENSURE REQUIREMENTS

The Agency of Natural Resources shall commence a study of potential approaches to licensing and certifying qualified wetlands scientists, including developing a set of standard qualifications required for all professional wetland scientists. On or before January 1, 2024, the Agency shall submit a report to the Legislature summarizing its findings and providing recommendations for the development of a professional certification program for wetland scientists.

\* \* \* Effective Dates \* \* \*

Sec. 25. EFFECTIVE DATES

(a) This section and Secs. 23 (wetlands permit fees) and 24 (wetlands scientist licensing) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

(Committee vote: 5-0-0)



\_\_\_\_\_  
Senator Collamore  
FOR THE COMMITTEE