

1 S.258

2 Introduced by Senators Pearson and Pollina

3 Referred to Committee on

4 Date:

5 Subject: Agriculture; conservation and development; Required Agricultural
6 Practices; climate resiliency

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 Secretary of Agriculture, Food and Markets to evaluate the sufficiency of the
9 Required Agricultural Practices (RAPs) to determine if the requirements and
10 practices under the RAPs are adequate to address increased and foreseeable
11 climate change-induced precipitation in a manner that protects soil resources
12 and prevents harmful or inefficient runoff of nutrient pollution to State waters.

13 An act relating to amending the Required Agricultural Practices in order to
14 address climate resiliency

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. EVALUATION OF CLIMATE RESILIENCY UNDER THE
17 REQUIRED AGRICULTURAL PRACTICES

18 (a) On or before August 1, 2022, the Secretary of Agriculture, Food and
19 Markets shall initiate a public process to evaluate the sufficiency of the
20 Required Agricultural Practices (RAPs) to determine if the requirements and

1 practices under the RAPs are adequate to address increased and foreseeable
2 climate change-induced precipitation in a manner that protects soil resources
3 and prevents harmful or inefficient runoff of nutrient pollution to State waters.

4 As part of the evaluation of the RAPs, the Secretary shall:

5 (1) review RAP Section 3 and the activities and applicability of the
6 RAPs, including whether farms that are currently exempt from the RAPs
7 should be subject to the RAPs due to heavier and more localized weather
8 events;

9 (2) examine the requirements for certification of small farms under RAP
10 Section 4 and whether the threshold for qualifying as a Certified Small Farm
11 should be amended to include a smaller number of livestock;

12 (3) evaluate the agricultural water quality training requirements under
13 RAP Section 5 and whether the water quality training currently received by
14 farmers adequately addresses the process and procedure of manure application
15 that focusses on more frequent, intense heavy participation events; and

16 (4) review the conditions, restrictions, and operating standards for
17 agricultural activities under RAP Section 6 and whether:

18 (A) intense precipitation events have resulted in or may result in
19 more frequent or a higher volume of agricultural wastewater discharges that
20 require additional management on farm fields;

1 (B) requirements regarding the storage of manure and other
2 agricultural wastes need to be adjusted to address increased climate change-
3 induced precipitation;

4 (C) standards or requirements for nutrient management planning,
5 particularly nutrient application, need to be adjusted to address changes in
6 precipitation;

7 (D) soil management activities and retention practices should be
8 altered to improve the response to heavy precipitation events in order to ensure
9 soil health and limit erosion;

10 (E) requirements for the use of cover crops are stringent enough to
11 protect soils from erosion due to more frequent and intense flooding events;

12 (F) standards and restrictions for manure application are adequate,
13 particularly focusing on whether:

14 (i) the seasonal ban on manure application is adequate or should
15 be expanded;

16 (ii) more stringent measures should be employed to address
17 frequent flooding events from adjacent surface waters;

18 (iii) the standards used to prevent nutrient application on lands
19 subject to flooding, ponding, and other conditions are adequate; and

20 (iv) the nutrient application limits of 100 feet from a private water
21 supply and 200 feet from a public water supply are adequate to protect

1 drinking water and public health from nutrient infiltration due to heavy
2 precipitation and more frequent flooding;

3 (G) the criteria and review process for seasonal and emergency
4 spreading exemptions are adequate and being followed rigorously by the
5 Agency of Agriculture, Food and Markets;

6 (H) the required vegetative buffers under the RAPs are adequate to
7 protect waters from increased surface runoff and whether a 25-foot buffer of
8 perennial vegetation that can be harvested provides adequate protection for
9 adjacent surface waters; and

10 (I) standards to stabilize the banks of surface waters are adequate to
11 account for more frequent and higher volume flooding events.

12 (b) During evaluation of the RAPs as directed under subsection (a) of this
13 section, the Secretary of Agriculture, Food and Markets shall conduct public
14 notice and comment and hold at least three public hearings in order to collect
15 public input regarding the sufficiency of the RAPs to address increased climate
16 change-induced precipitation events.

17 (c) On or before January 15, 2023, the Secretary of Agriculture, Food and
18 Markets shall submit to the Senate Committees on Agriculture and on Natural
19 Resources and Energy and the House Committees on Agriculture and Forestry
20 and on Natural Resources, Fish, and Wildlife the results or conclusions of the
21 evaluation required under subsection (a) of this section.

1 (d) If after completion of the evaluation under subsection (a) of this section
2 the Secretary of Agriculture, Food and Markets determines that the RAPs
3 should be amended to improve application or response to increased climate
4 change-induced precipitation, the Secretary shall initiate rulemaking under 3
5 V.S.A. chapter 25 to amend the RAPs and protect the surface waters of the
6 State. The Secretary shall adopt rules under this subsection not later than
7 January 14, 2024.

8 Sec. 2. EFFECTIVE DATE

9 This act shall take effect on passage.