



VERMONT

AGENCY OF AGRICULTURE, FOOD & MARKETS

Public Health & Agricultural Resource Management Division

www.agriculture.vermont.gov

116 State Street • Montpelier, Vermont 05620-2901 • (802) 828-2431 • (802) 828-1410 FAX

December 13, 2022

Hon. Mark MacDonald, Chair
Legislative Committee on
Administrative Rules
Vermont State House
Montpelier, Vermont 05602

Amendments to Final Proposed Rule

Dear Chairperson MacDonald and Members:

After the close of the deadline for comment and submitting the final proposal to LCAR, the Agency of Agriculture, Food and Markets has made additional changes regarding the filing. Accordingly, the Agency is providing this memo to indicate additional amendments to the final proposal as filed. Alterations to the text are indicated with an underline.

Section 1. Definitions

Revise “groundwater” to mean water below the land surface that occurs in a zone of saturation.

Section 1.36: add definition of “Groundwater Protection Rule and Strategy” to mean Chapter 12 of the Environmental Protection Rules adopted pursuant to 10 V.S.A. Chapter 48, as amended.

Section 1.52 (previously Section 1.51) has been amended to read: “Potable Water Supply” means the same as it is defined in 10 V.S.A. Chapter 064.

Section 1.53: add definition of add definition of “potable water source” to mean a component of a potable water supply that withdraws or collects water from soil or bedrock. Potable water sources include springs; drilled, driven, or dug wells; and surface water.

Section 1.74: add definition of “Wastewater and Potable Water Supply Rules” to mean Chapter 1 of the Environmental Protection Rules adopted pursuant to 10 V.S.A. Chapters 47, 56, and 64, as amended.

Section 5. General Standards for Pesticide Use; Standard of Operation

Section 5.02(l) has been amended to require management of pesticide use to “below the preventative action limits pursuant to Appendix One of the [GWPRS]”.

- (l) manage the use of a pesticide to reduce the concentrations of a pesticide in groundwater to below the preventive action limits pursuant to Appendix One of the “Ground Water Protection Rule and Strategy” when monitoring indicates the presence of pesticide concentrations in groundwater that exceed the preventive action limits

Section 5.02(m) has been amended:

- removing ability to reduce of 50-foot buffer from potable water source if “written permission

- allowing a lesser distance has been granted by the well owner”.
- in 5.02(m)(2): adding requirement for increased isolation distances from potable water sources when required by the WWPWS (Table 11-1).
- (m) maintain a minimum 50-foot buffer when applying a pesticide to soil or vegetation around any potable water source unless:
- (1) the label prescribes a greater buffer; or
 - (2) a greater buffer is required for the specific application (such as application on agricultural cropland, or herbicide and pesticide application on utility rights-of-way) pursuant to the distances established in Table 11-1 of the Wastewater and Potable Water Supply Rules

Section 5.02(n) has been amended to remove ability to reduce setbacks from public water supplies if “written permission allowing a lesser distance has been granted by the water supplier”, and incorporating requirement for specific isolation distances from public water supplies (to be consistent with the distances required by the Vermont Water Supply Rule).

- (n) maintain a minimum buffer distance around any public water source when applying a pesticide to soil or vegetation, unless the label prescribes a greater buffer:
- (1) 100-foot buffer for all public non-community groundwater drinking water sources; and
 - (2) 200-foot buffer for all public community drinking water sources and intakes, and surface water public non-community drinking water intakes.

Section 6. Permitting Requirements; Golf Course Permit

Section 6.01(d) has been amended to revise the phrase “potable water supplies” to “potable water sources”.

Section 6.05(d)(3)(c) has been amended to revise the phrase “potable water supplies” to “potable water sources”.

Sections 6.05(e)(3)(A) and (B) have been amended to update references to “potable water sources”, “public non-community groundwater drinking water sources and intakes”, “public community drinking water sources and intakes”, and “surface water public non-community drinking water intakes” to better reflect isolation distances related to these types of drinking water sources in DEC’s rules.

- (A) be 100-feet from all potable water sources and public non-community groundwater drinking water sources;
- (B) be 200-feet from all public community drinking water sources and intakes, and surface water public non-community drinking water intakes;

Section 6.06(c) has been amended to revise the phrase “potable water supplies” to “potable water sources”.

Section 6.07(c) has been amended to revise the phrase “potable water supplies” to “potable water sources”.

Section 6.08 has been amended to correct the name of the committee by adding the word “Exotic” between “Invasive” and “Plant” so that it reads “Invasive Exotic Plant Advisory Committee”.

Section 11. Transportation and Storage of Pesticides; Pesticide and Container Storage by Applications and Dealers

Section 11.02 has been amended to add a subdivision (s) to require minimum buffer distances to be maintained around public water sources to better reflect isolation distances related to these types of drinking water sources in DEC's rules.

- (s) The following minimum buffer distances are maintained around any public water source:
 - (1) 100-foot buffer for all public non-community groundwater drinking water sources; and
 - (2) 200-foot buffer for all public community drinking water sources and intakes, and surface water public non-community drinking water intakes.

Section 12. Bulk Pesticide Storage

Section 12.03 has been amended to add two new subsections: subsection (7) to require that bulk storage structures maintain buffer distances related to potable water sources as prescribed in Table 11-1 of the Wastewater and Potable Water Supply Rules; and subsection (8) to require minimum buffer distances to be maintained around public water sources to better reflect isolation distances related to these types of drinking water sources in DEC's rules.

- (a) Design, construction, and maintenance of bulk storage containers and appurtenances.
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 - (7) Bulk pesticide storage structures (buried tank of any size; aboveground tank greater than 1,500 gallons; dry or liquid; and piping serving a nonresidential facility) shall maintain the buffer distances related to any potable water supplies as established in Table 11-1 of the Wastewater and Potable Water Supply Rules.
 - (8) Bulk pesticide storage facilities shall maintain the following minimum buffers around any public water sources:
 - (i) 100-foot buffer for public non-community groundwater drinking water sources; and
 - (ii) 200-foot buffer for all public community drinking water sources and intakes, and surface water public non-community drinking water intakes.

Other:

Replacing "private well" and "public well" with "potable water source" and "public water source", respectively, throughout.