

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred Senate Bill No. 258
3 entitled “An act relating to amending the Required Agricultural Practices in
4 order to address climate resiliency” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 6 V.S.A. § 23 is added to read:

8 § 23. GOOD STANDING FOR AGENCY GRANTS

9 (a) As used in this section, “good standing” means an applicant for a grant
10 exclusively awarded by the Agency:

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

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

15 (b) This section shall not amend, alter, or otherwise modify the “good
16 standing” requirements established for grant programs in chapter 215 of this
17 title.

18 (c) An applicant shall not be eligible for any grant exclusively awarded by
19 the Agency unless the applicant is in good standing with the Secretary on all
20 grant agreements, contract awards, and enforcement proceedings at the time of
21 the grant award.

1 (d) In the Secretary’s sole discretion, the Agency may waive the grant
2 prohibition in subsection (c) of this section if the Secretary determines that:

3 (1) the applicant is working constructively with the Agency in good
4 faith to resolve all issues that prevent good standing, and the applicant agrees
5 in writing to take all necessary measures to comply with good standing
6 requirements within a described time period;

7 (2) all issues that prevent an applicant’s good standing are minor and do
8 not warrant ineligibility for the applicable grant; or

9 (3) the Secretary determines that waiving the good standing requirement
10 is in the interests of justice.

11 (e) The good standing requirement only applies to grants exclusively
12 awarded by the Agency. When the Agency is involved in administering other
13 grants, the Agency may raise an applicant’s lack of good standing for the
14 awarding entity’s consideration and review. The awarding entity may consider
15 the applicant’s lack of compliance when determining whether to award a grant.

16 Sec. 2. 6 V.S.A. § 4802(8) is amended to read:

17 (8) “Waste” or “agricultural waste” means material originating or
18 emanating from a farm or imported onto a farm that is determined by the
19 Secretary or the Secretary of Natural Resources to be harmful to the waters of
20 the State, including: sediments; minerals, including heavy metals; plant
21 nutrients; pesticides; organic wastes, including livestock waste, animal
22 mortalities, compost, feed, and crop debris; waste oils; pathogenic bacteria and

1 viruses; thermal pollution; silage runoff; untreated milk house waste; and any
2 other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

3 Sec. 3. 6 V.S.A. § 4815 is amended to read:

4 § 4815. WASTE STORAGE FACILITY

5 (a) No person shall construct a new waste storage facility or expand or
6 modify a waste storage facility in existence on July 1, 2006 unless the facility
7 meets the standard established for such facilities by the Natural Resources
8 Conservation Service of the U.S. Department of Agriculture or an equivalent
9 standard. If an equivalent design standard is used, the design and construction
10 shall be certified by the Secretary of Agriculture, Food and Markets or a
11 licensed professional engineer operating within the scope of ~~his or her~~ the
12 engineer’s expertise.

13 (b) The Secretary may require the owner or operator of a waste storage
14 facility in existence on July 1, 2006, to modify the facility to meet the standard
15 set forth in subsection (a) of this section if the facility poses a threat to human
16 health or the environment ~~as established by a violation of the State~~
17 ~~groundwater protection standards~~. If the Secretary determines that a facility
18 that meets the standard set forth in subsection (a) of this section poses a threat
19 to human health or the environment, the Secretary may require the owner or
20 operator of the facility to implement additional management measures.

21 (c) ~~The~~ If the Secretary suspects that a waste storage facility may be
22 contaminating groundwater, the Secretary shall pay the costs of any initial

1 groundwater monitoring ~~conducted~~ to determine if whether a facility poses a
2 threat to human health or the environment ~~shall be paid by the Secretary.~~

3 Within 21 days ~~of~~ after a determination under this subsection that a facility
4 poses a threat to human health or the environment because of apparent
5 violation of the Groundwater Protection Standards, the Secretary of
6 Agriculture, Food and Markets shall notify the Department of Health and the
7 Secretary of Natural Resources of the location of the facility and the name of
8 its owner or operator.

9 ~~(e)~~(d) As used in this section, “waste storage facility” means an
10 impoundment made for the purpose of storing agricultural waste by
11 constructing an embankment, excavating a pit or dugout, fabricating an
12 inground and aboveground structure, or any combination thereof.

13 Sec. 4. 6 V.S.A. § 4817 is amended to read:

14 § 4817. MANAGEMENT OF NON-SEWAGE WASTE

15 (a) As used in this section:

16 (1) “Non-sewage waste” means any waste other than sewage that may
17 contain organisms pathogenic to human beings but does not mean stormwater
18 runoff.

19 (2) “Sewage” means waste containing human fecal coliform and other
20 potential pathogenic organisms from sanitary waste and used water from any
21 building, including carriage water and shower and wash water. “Sewage” ~~shall~~
22 does not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

1 (b) The Secretary may require a person transporting or arranging for the
2 transport of non-sewage waste to a farm for deposit in a manure pit or for use
3 as an input in a methane digester to obtain approval from the Secretary prior to
4 transporting the non-sewage waste to the farm. The Secretary may require a
5 person to report to the Secretary at a designated time one or more of the
6 following:

7 (1) the composition of the material transported to the farm, including the
8 source of the material; and

9 (2) the volume of the material transported to a farm.

10 (c) After receipt of a report required under subsection (b) of this section,
11 the Secretary may prohibit the import of non-sewage waste onto a farm upon a
12 determination that the import of the material would violate the nutrient
13 management plan for the farm or otherwise present a threat to water quality.

14 Sec. 5. 6 V.S.A. § 4827 is amended to read:

15 § 4827. ~~NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS~~

16 ~~(a) A farm developing or implementing a nutrient management plan under~~
17 ~~chapter 215 of this title or federal regulations may apply to the Secretary of~~
18 ~~Agriculture, Food and Markets for financial assistance. The financial~~
19 ~~assistance shall be in the form of incentive grants. Annually, after consultation~~
20 ~~with the Natural Resources Conservation Service of the U.S. Department of~~
21 ~~Agriculture, natural resources conservation districts, the University of Vermont~~
22 ~~Extension Service and others, the Secretary shall determine the average cost of~~

1 ~~developing and implementing a nutrient management plan in Vermont. The~~
2 ~~dollar amount of an incentive grant awarded under this section shall be equal to~~
3 ~~the average cost of developing a nutrient management plan as determined by~~
4 ~~the Secretary or the cost of complying with the nutrient management planning~~
5 ~~requirements of chapter 215 of this title or federal regulations, whichever is~~
6 ~~less.~~

7 (b) ~~Application for a State assistance grant shall be made in a manner~~
8 ~~prescribed by the Secretary and shall include, at a minimum:~~

9 (1) ~~an estimated cost of developing and implementing a nutrient~~
10 ~~management plan for the applicant;~~

11 (2) ~~the amount of incentive grant requested; and~~

12 (3) ~~a schedule for development and implementation of the nutrient~~
13 ~~management plan.~~

14 (c) ~~The Secretary annually shall prepare a list of farms ranked, regardless~~
15 ~~of size, in priority order that have applied for an incentive grant under this~~
16 ~~section. The priority list shall be established according to factors that the~~
17 ~~Secretary determines are relevant to protect the quality of waters of the State,~~
18 ~~including:~~

19 (1) ~~the proximity of a farm to a water listed as impaired for agricultural~~
20 ~~runoff, pathogens, phosphorus, or sediment by the Agency of Natural~~
21 ~~Resources;~~

22 (2) ~~the proximity of a farm to an unimpaired water of the State;~~

1 ~~(3) the proximity of a drinking water well to land where a farm applies~~
2 ~~manure; and~~

3 ~~(4) the risk of discharge to waters of the State from the land application~~
4 ~~of manure by a farm.~~

5 ~~(d) Assistance in accordance with this section shall be provided from State~~
6 ~~funds appropriated to the Agency of Agriculture, Food and Markets for~~
7 ~~integrated crop management.~~

8 ~~(e) If the Secretary or the applicable U.S. Department of Agriculture~~
9 ~~conservation programs lack adequate funds necessary for the financial~~
10 ~~assistance required by subsection (a) of this section, the requirement to develop~~
11 ~~and implement a nutrient management plan under State statute or State~~
12 ~~regulation shall be suspended until adequate funding becomes available.~~

13 ~~Suspension of a State required nutrient management plan does not relieve an~~
14 ~~owner or operator of a farm permitted under section 4858 or 4851 of this title~~
15 ~~of the remaining requirements of a State permit, including discharge standards,~~
16 ~~groundwater protection, and land application of manure. This subsection does~~
17 ~~not apply to farms permitted under 10 V.S.A. § 1263.~~

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

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

2 § 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

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

8 (b) The capital equipment assistance program is created in the Agency of
9 Agriculture, Food and Markets to provide State financial assistance for the
10 purchase of new or innovative equipment to ~~improve manure application,~~
11 ~~separation of phosphorus from manure, or nutrient management plan~~
12 ~~implementation~~ achieve the purposes of this section.

13 (c) Assistance under this section shall in each fiscal year be allocated
14 according to the following priorities and as further defined by the Secretary.
15 Priority shall be given to capital equipment to be used on multiple farms;
16 equipment to be used for phosphorus reduction, separation, or treatment; and
17 projects managed by nonprofit organizations that are located in descending
18 order within the boundaries of:

- 19 (1) the Lake Champlain Basin;
20 (2) the Lake Memphremagog Basin;
21 (3) the Connecticut River Basin; and
22 (4) the Hudson River Basin.

1 (d) An applicant for a State grant under this section to purchase or
2 implement phosphorus reduction, separation, or treatment technology or
3 equipment shall pay 10 percent of the total eligible project cost. The dollar
4 amount of a State grant to purchase or implement phosphorus reduction,
5 separation, or treatment technology or equipment shall be equal to the total
6 eligible project cost, less 10 percent of the total as paid by the applicant, and
7 shall not exceed \$300,000.00.

8 Sec. 7. 6 V.S.A. § 4832 is amended to read:

9 § 4832. FARM AGRONOMIC PRACTICES PROGRAM

10 (a) The Farm Agronomic Practices Assistance Program is created in the
11 Agency of Agriculture, Food and Markets to provide the farms of Vermont
12 with State financial assistance for the implementation, including through
13 education, training, or instruction, of soil-based practices that improve soil
14 quality and nutrient retention, increase crop production, minimize erosion
15 potential, and reduce agricultural waste discharges. The following practices
16 may be eligible for assistance to farms under the grant program:

- 17 (1) conservation crop rotation;
- 18 (2) cover cropping;
- 19 (3) strip cropping;
- 20 (4) cross-slope tillage;
- 21 (5) zone or no-tillage;
- 22 (6) pre-sidedress nitrate tests; and

1 ~~(7) annual maintenance of a nutrient management plan that is no longer~~
2 ~~receiving funding under a State or federal contract, provided the maximum~~
3 ~~assistance provided to a farmer under this subdivision shall be \$2,000.00 per~~
4 ~~year;~~

5 ~~(8) educational and instructional activities to inform the farmers and~~
6 ~~citizens of Vermont of:~~

7 ~~(A) the impact on Vermont waters of agricultural waste discharges;~~
8 ~~and~~

9 ~~(B) the federal and State requirements for controlling agricultural~~
10 ~~waste discharges;~~

11 ~~(9) implementing alternative manure application techniques; and~~

12 ~~(10) additional soil erosion reduction practices~~ soil-based practices that
13 improve soil quality and nutrient retention, increase crop production, minimize
14 erosion potential, and reduce agricultural waste discharges.

15 ~~(b) Funding available under section 4827 of this title for nutrient~~
16 ~~management planning may be used to fund practices under this section.~~

17 Sec. 8. 6 V.S.A. § 4852 is amended to read:

18 § 4852. RULES

19 The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 concerning
20 program administration, program enforcement, appeals and standards for waste
21 management and waste storage, setbacks or siting criteria for new construction
22 or expansion, groundwater contamination, odor, noise, traffic, insects, flies,

1 and other pests in order to implement this subchapter. The siting criteria
2 adopted by the Secretary by rule shall be consistent with the standards for the
3 quality of State waters and standards for ~~acceptable~~ required agricultural
4 practices pursuant to subchapter 2 of this chapter. The groundwater
5 contamination rules adopted by the Secretary shall include a process under
6 which the agency shall receive, investigate, and respond to a complaint that a
7 farm has contaminated the drinking water or groundwater of a property owner.

8 Sec. 9. EXTENSION OF TASK FORCE TO REVITALIZE THE VERMONT
9 DAIRY INDUSTRY

10 (a) Notwithstanding 2020 Acts and Resolves No. 129, Sec. 31(c)(6), the
11 Task Force to Revitalize the Vermont Dairy Industry shall continue to exist
12 and retain the authority granted to it in 2020 Acts and Resolves No. 129, Sec.
13 31 until February 1, 2023.

14 (b)(1) For attendance of a meeting of the Task Force to Revitalize the
15 Vermont Dairy Industry during adjournment of the General Assembly between
16 the effective date of this act and February 1, 2023, a legislative member of the
17 Task Force shall be entitled to per diem compensation and reimbursement of
18 expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These
19 payments shall be made from monies appropriated to the General Assembly.

20 (2) Other members of the Task Force that are not legislative members
21 shall be entitled to both per diem compensation and reimbursement of
22 expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings.

1 These payments shall be made from monies appropriated to the General
2 Assembly.

3 Sec. 10. EFFECTIVE DATE

4 This act shall take effect on passage.

5 and that after passage the title of the bill be amended to read: “An act
6 relating to agricultural water quality, enforcement, and dairy farming”

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12 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE