

Agency Of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901
www.Agriculture.Vermont.gov

March 25, 2016

Representative David Deen, Chair, House Committee on Fish, Wildlife and Water Resources
Representative Carolyn Partridge, Chair, House Committee on Agriculture and Forest Products
Senator Christopher Bray, Chair, Senate Committee on Natural Resources and Energy
Senator Robert Starr, Chair, Senate Committee on Agriculture
Representative Anthony Klein, Chair, House Committee on Natural Resources and Energy
State House
115 State Street
Montpelier, VT 05633

Dear Representative Deen, Representative Partridge, Senator Bray, Senator Star and Representative Klein,

Act 64, as passed by the legislature last year, requires that on or before July 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices (RAPs) in order to improve agricultural water quality in the State. The revised RAPs shall include requirements for: small farm certification, nutrient storage, soil health, buffer zones, livestock exclusion, and nutrient management.

Since Act 64 was signed into law on June 16, 2015, the Vermont Agency of Agriculture, Food & Markets (VAAFM) has been working fastidiously to meet the July 1, 2016 deadline to have the RAPs amended by rule. Several key milestones have already been met as VAAFM has worked to engage stakeholders in a transparent public process to ensure the development of a rule which will improve agricultural water quality while reflecting the realities of farming as well as the legislative intent of Act 64.

To date, there has been significant public outreach on the part of VAAFM which has elicited robust public engagement in the RAP drafting process—over 1400 individuals have attended the 70 stakeholder meetings VAAFM has held since October, 2015 to discuss the draft rules in detail and solicit feedback on the provisions and process.

To summarize VAAFM efforts, we have released two drafts of the RAPs and engaged in two informal rounds of public comment. The public meetings and public comment period held in 2015 and 2016 are not required by law, however this informal process was conducted by VAAFM to ensure rule development which will provide a realistic, workable framework for agricultural management in our state that effectively protects Vermont's lakes and rivers.

Comments received on the second draft of the RAPs span many sections of the proposed rule, but the four areas which have received the most substantial public comment and necessitates additional time for consideration includes:

- Section 4: Small Farm Certification Thresholds—Cropland and definition
- Section 6.05: Manure Application Restrictions—Frequently flooded soil layers
- Section 6.03: Nutrient Management Planning—Standards & effective date
- Section 6.04: Cover Cropping Requirements—Less common crops & dates



Based on the quantity and quality of public comment received to date, and the time required to fully consider and respond to comments, we now understand that more time is needed to develop and file a rule which meets the standards of Act 64 while meeting the needs of the regulated community. VAAFMM is requesting an extension of the final date by which the RAPs would need to be adopted by rule.

The delay of the adoption date for the RAPs will not significantly impact Vermont's Phase 1 Implementation Plan Timetable for the EPA TMDL for Lake Champlain nor delay the implementation of several key provision proposed in the draft RAPs. With the original adoption date of July 1, 2016 stated in Act 64, the field season for 2016 would have already been well underway and many of the field management, manure application and buffer requirements proposed in the RAPs would not have been required or enforceable until spring of 2017.

In our attached timeline, VAAFMM proposes a roadmap by which the RAPs could be formally filed by April 15, 2016 with a final proposed rule filed with LCAR by August 1, 2016. An extension of the adoption deadline of the RAPs set forth in Act 64 to September 15, 2016 would provide LCAR 45 days after the filing of the final proposal to take action on the rule. This extension will ensure the robust discussion taking place today continues, and that a more effective rule can be drafted and implemented.

Sincerely,



Chuck Ross
Secretary
Vermont Agency of Agriculture, Food & Markets

Enclosures:
VAAFMM Required Agricultural Practices (RAPs) Rulemaking Timeline 2015-2016