



Required Agricultural Practices

Fall Planning and Zoning Forum
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Vermont League of Cities and Towns

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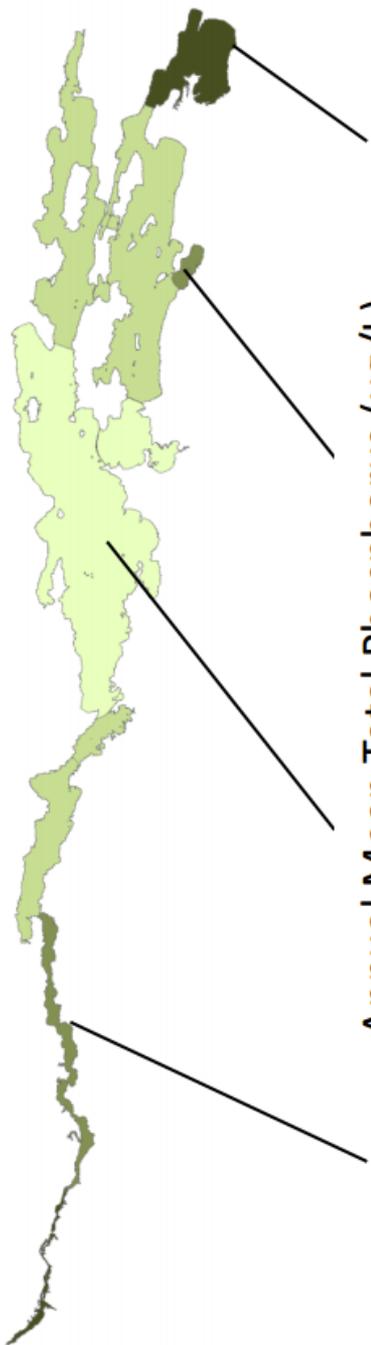
Overview

- What are Required Agricultural Practices
- Jurisdictional Changes
- Opportunity for Municipal Regulation
- Time for Questions

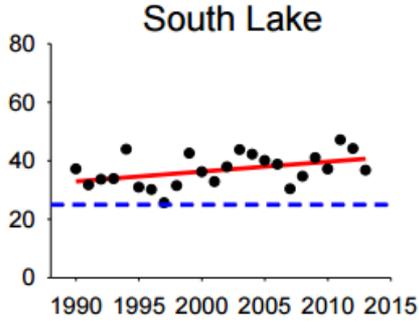
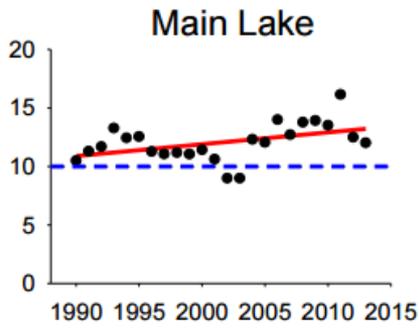
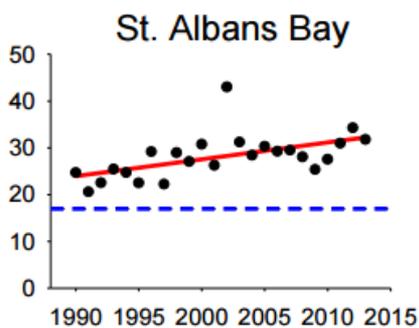
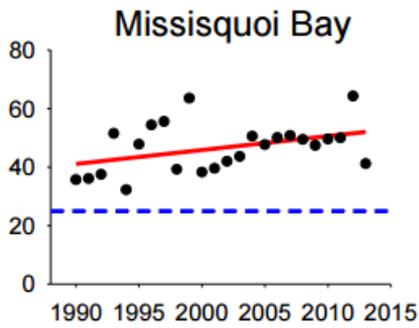


Required Agricultural Practices





Annual Mean Total Phosphorus ($\mu\text{g/L}$)



— Trend line
- - - Water quality standard

Lessons learned from the past 20 years

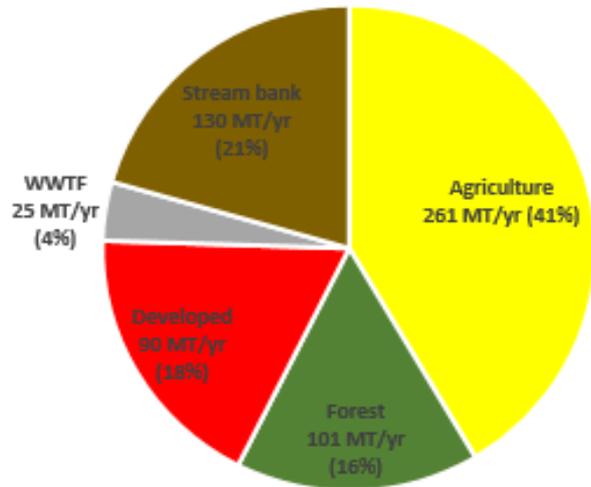
Phosphorus levels in the lake are above the allowable standards.

Vermont has taken many important actions, especially in the last 10 years.

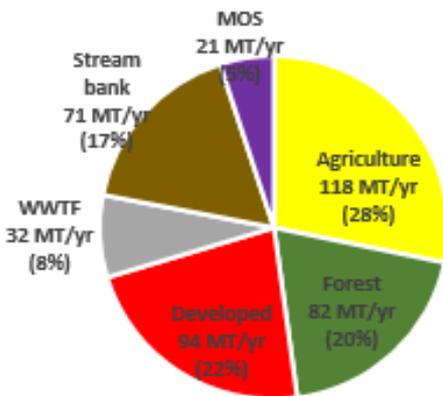
Cleaning up the lake ecosystem is complex and recovery will take time.

We need to do a lot more.

Base Load
631 Metric Tons/Year



Vermont Reduction
Required = 213 mt/yr (34%)



TMDL Loading Capacity and Allocations
418 Metric Tons/yr

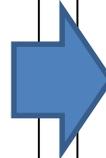
34% phosphorus
reduction over
20 years



What are the RAPs?

Act 64

- VAAFM was directed by the Legislature to draft the RAPs pursuant to Act 64, signed into law on June 16, 2015.
- VAAFM has been charged with filing a Final Proposed Rule on or before **September 15, 2016**

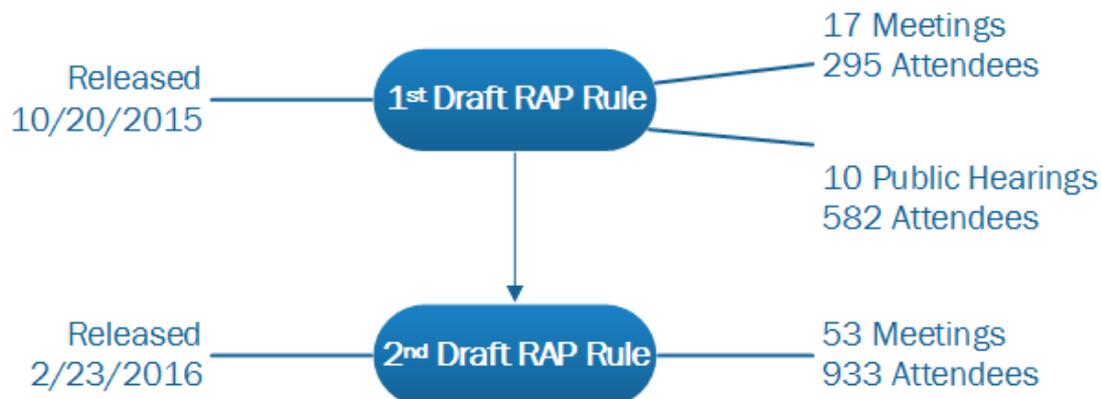


RAPs

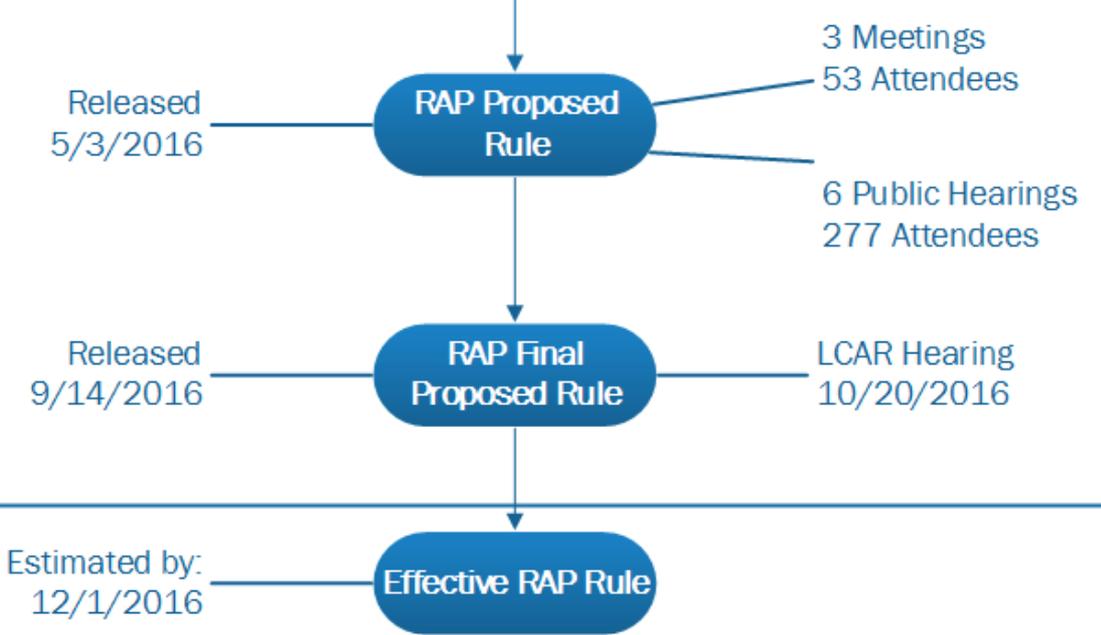
- AAPs Since 1995
- Act 64 requires that the revised RAPs include requirements for:
 - small farm certification,
 - nutrient storage,
 - soil health,
 - buffer zones,
 - livestock exclusion, and
 - nutrient management.
 - *Tile Drainage Rules for Jan 15, 2018*

RAP Rulemaking Timeline

Informal Rulemaking



Formal Rulemaking



Public Outreach & Comments Received

Total Meetings & Hearings

- 89 Meetings
- 2100+ Attendees

Comments Received

1st Draft RAPs
150+ Commenters

RAP Proposed Rule
500+ Commenters

RAPs are STATEWIDE Agricultural Non-Point Source Pollution Regulations that include:

- **Small farm certification**
- **Siting requirements for farm structures**
- **Erosion standards**
- **Floodplain management**
- **Streamside and Ditch Buffers and manure setbacks**
 - 25' all surface water, 10' all ditches
- **Livestock exclusion from surface waters**
- **Nutrient management (including seasonal manure application)**
- **Required education/training for farms (4 hours/5 years)**
- **Custom manure applicator training (8 hours/5 years)**
- *Tile drainage rules for Jan 15, 2018*





What Farm Size are You?



Regulatory Authority

Size of Farm

Requirements Needed to Meet Farm Type

Municipal zoning may apply authority to Non-RAP Operations (NROs).

Can be required to follow the RAPs if adverse water quality impact exists

Non-RAP Operations (NRO)



Operates LESS THAN 4 acres used for farming AND has animal numbers below RAP Farm Threshold (Example: 1-4 cows; 1-3 horses; 1-99 layers)

- OR -

Makes LESS THAN \$2,000 Annual Gross Income AND did NOT file a 1040F once in the last 2 years.

Agency of Agriculture, Food & Market (VAAFM) regulates RAP Small Farm Operations (SFOs).

MUST follow RAPs.

RAP Small Farm Operations (SFO)



Operates 4+ acres used for farming
- OR -
Regardless of acreage, any farming operation that makes more than \$2,000 Annual Gross Income or has filed a 1040F once in the last 2 years.

- OR -

Has an Approved Business Management Plan

Operates 10+ acres used for farming

- AND one of the following categories: -

Livestock Farm: Example: 50 - 199 Dairy Cows
or 75 - 300 Beef Cows
or 40 - 150 Horses
or 90,000# Liveweight

- OR -

Annual Crop Farm: 50+ acres used for growing Annual Crops (Ex: Feed Corn; Sweet Corn; Pumpkins; Soybeans)

- OR -

Vegetable Farm: 50+ acres used for growing Vegetables

VAAFM regulates Certified SFOs.

Farm needs to ANNUALLY Self-Certify

-AND -

MUST follow RAPs.

Certified Small Farm Operations (CSFO)



Permitted Medium Farm Operations (MFO)



Meets Animal Numbers for MFO
Example: 200-699 Dairy Cows
or 300-999 Beef Cows
or 150-499 Horses
or 3,000 to 9,999 Sheep

VAAFM regulates MFOs.

Farm needs a MFO General Permit with Annual Report

- AND -

MUST follow permit and RAPs.

VAAFM regulates LFOs.

Farm needs a LFO Individual Permit with Annual Reporting

- AND -

MUST follow permit and RAPs.

Permitted Large Farm Operations (LFO)



Meets Animal Numbers for LFO
Example: 700+ Dairy Cows
or 1000+ Beef Cows
or 500+ Horses
or 10,000+ Sheep

Estimated # Farms

5500

1500

140

27

What do the RAPs mean for municipalities?

- Increased authority over animal husbandry and small scale operations
- Increased regulations on agricultural operations that reduce the impacts to the municipal drainage infrastructure
- Agricultural operations reduce overall costs to municipalities by addressing significant load reductions both in agriculture and streambanks

Activities that **can be** managed by local town/municipality

Parcels smaller than 4 acres in size and manages

- a) four equines;
- b) five cattle, cows, or American bison;
- c) 15 swine;
- d) 15 goats;
- e) 15 sheep;
- f) 15 cervids;
- g) 50 turkeys;
- h) 50 geese;
- i) 100 laying hens;
- j) 250 broilers, pheasant, Chukar partridge, or Coturnix quail;
- k) three camelids;
- l) four ratites;
- m) 30 rabbits;
- n) 100 ducks;
- o) 1,000 pounds of cultured trout; or
- p) other livestock types, combinations, and numbers as designated by the Secretary

A farm can demonstrate they are a farm that should be regulated under the RAPs by income or a prospective business plan.

Animal husbandry activities that can be managed by local town/municipality

Operations with an annual gross income from the sale of agricultural products less than \$2,000 in an avg year;

OR

Preparing, tiling, fertilizing, planting, protecting, irrigating, and harvesting crops for sale on a parcel that is less than 4.0 contiguous acres in size.



Municipal Regulatory Jurisdiction



Limitation

24 V.S.A. § 4413 (d)

(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets; ...

Limitation

24 V.S.A. § 4413 (d)

(2) As used in this section:

(A) "Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

Limitation

24 V.S.A. § 4413 (d)

(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

Expanded Municipal Authority

Provide opportunity for towns to regulate non-commercial operations

- Water Quality
- Nuisance
- Land Use

Municipal Authority

An agricultural operation

- On less than 4 contiguous acres and animal #s below the current threshold; or
- That makes less than \$2,000 Annual Gross Income; or



Municipal Authority

- On less than 4 contiguous acres raising crops for sale; or
- That did not file a Schedule 1040(F) once in the last two years



Addressing Water Quality Impacts

- An operation that is not covered by VAAFMM regulation can be required to comply with RAPs when
 - the Secretary determines there are adverse impacts to water quality; and
 - the municipality is without bylaws or ordinances in place to manage the activities causing the issues



Nuisance

- Agency will not enforce against an operation that is not under its jurisdiction that is a nuisance
 - Noise
 - Manure crossing boundaries
 - Odors
 - Flies or other pests



Municipal Authority



Authority to Regulate Backyard Operations

Existing Authority

- Nuisance Ordinance
- Animal Control Ordinance
- Animal Welfare Ordinance
- Public Health Ordinance

- Examples in Montpelier, Barre City, South Burlington and Burlington

Authority to Regulate Backyard Operations

- maintenance of a sanitary conditions,
- manure storage and removal,
- noise,
- # of animals or prohibition of keeping certain animals,
- control of operation to discourage pests,
- mortality disposal,
- running at large,
- licensing and enforcement

Authority to Regulate Backyard Operations

Existing Bylaws may apply to very small/backyard operations

- Flood hazard Area and River Corridor Regulations
- Setbacks regulations for construction of buildings



Authority to Plan

Existing Planning Authority

- Creation of Agricultural District
 - Separate incompatible land use
 - Limit development to only those uses in support of agriculture

- Overlay District
 - Protect natural resources
 - Transitions at Boundaries

Zoning Approaches

- Minimum parcel size for keeping livestock
- Buffer requirements from surface water and wetlands
- Livestock, animal mortalities and manure management
 - Setback distances to public and private wells
 - Setback distances to surface water and wetlands
 - Setback to property lines

No Mandate

- No requirement to adopt a Bylaw or Ordinance to protect water quality or prevent nuisance
- If a nuisance exists an individual can bring a civil suit



What remains the same?

Agency of Natural Resources

Agency of Natural Resources responsibilities are not changing

- Regulate direct discharges
- Inspections
- Enforcement



Flood Hazard Area and River Corridor Approvals

The Agency works with DEC to review plans for the construction of “Farm Structures” within the Flood Hazard Areas or River Corridors



FHA & RC

- The town must make a determination on whether a building is proposed in a regulated flood hazard area or river corridor.
- If yes, and the building is a “farm structure” VAAFMM notifies town of its decision
- And refers farm operator to DEC
 - Exempt
 - General permit
 - Reporting and non reporting
 - Individual permit



Farm Structure Construction

- VAAFM has no authority to approve construction in a highway right of way
- Town issues an 1111 permit for these types of improvements



Construction of Farm Structures – Alternative to Local Setbacks

- Farm structures must meet local setbacks
- If these setbacks can't be met, must request a alternative to local setbacks from the Secretary

Questions



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