

STATE OF VERMONT
AGENCY OF AGRICULTURE, FOOD AND MARKETS

In re: CLF Petition to Requirement Mandatory Pollution Control
Best Management Practices for Agricultural Non-Point Sources
Identified in the Missisquoi Basin Plan

AAFM Docket # 2014-6-04 ARM

Revised Secretary's Decision
Decision to Extend to St. Albans, Otter Creek and South Lake Watersheds

On February 3, 2016 the Secretary of Agriculture, Food & Markets (AAFM) issued a Revised Secretary's Decision (RSD) to an original November 17, 2014 denial of a petition filed by the Conservation Law Foundation (CLF) on May 22, 2014. The RSD determined that Best Management Practices (BMPs) are generally necessary on farms in the Missisquoi Bay watershed to achieve compliance with state water quality goals. BMPs are site specific conservation practices beyond those required by the Accepted Agricultural Practice (AAPs) regulations effective April 24, 2006. During the appeal process of the RSD, the AAPs were retitled (July 1, 2015) to the Required Agricultural Practices (RAPs) absent any other revisions to the rule. Then in December 2016 and in November 2018, the RAPs were revised to include additional BMPs as RAPs.

A Stipulation of the Parties for Remand was executed on January 15, 2016 in Superior Court which outlined the agreement of how to assess and require BMPs on farms. Within that agreement, AAFM could make a determination that BMPs are generally necessary on farms in the St. Albans, Otter Creek and South Lake Watersheds within 4 years from the effective date of the RSD and agree to implement the same or similar methodology set forth in the RSD. In return, CLF agreed not to file or assist in any third-party in preparing or filing a petition for implementation of BMPs to reduce phosphorus under 6 V.S.A. § 4813 as to those other three watersheds, for a period of 10 years from the date AAFM issues its first annual notice for those watersheds.

The RSD provides a framework for outreach, education and assessment on farms in the Missisquoi, St. Albans, Otter Creek and South Lake watersheds and a process for farm-specific implementation to address identified water quality resource concerns, where needed. Farm Assessments may conclude that practices required by the RAPs (AAPs of 2006) are sufficient to protect water quality and that BMPs may not be required due to a farm's specific characteristics or management.

Since the RSD, AAFM has conducted 3,911 farm visits for water quality inspection, investigation, and assessment. AAFM makes the threshold determination that where the RAPs (AAPs of 2006) are not sufficient to protect water quality on farms in the St. Albans, Otter Creek, and South Lake watersheds, BMPs are generally necessary to achieve compliance with state water quality goals.

AAFM intends to implement the same or similar methodology set forth in the RSD as per the January 2016 Stipulation of the Parties for Remand within the St. Albans, Otter Creek, and South Lake watersheds.

SO ORDERED



Anson Tebbetts
Secretary of the Vermont Agency of Agriculture, Food & Markets

Date 1/30/20