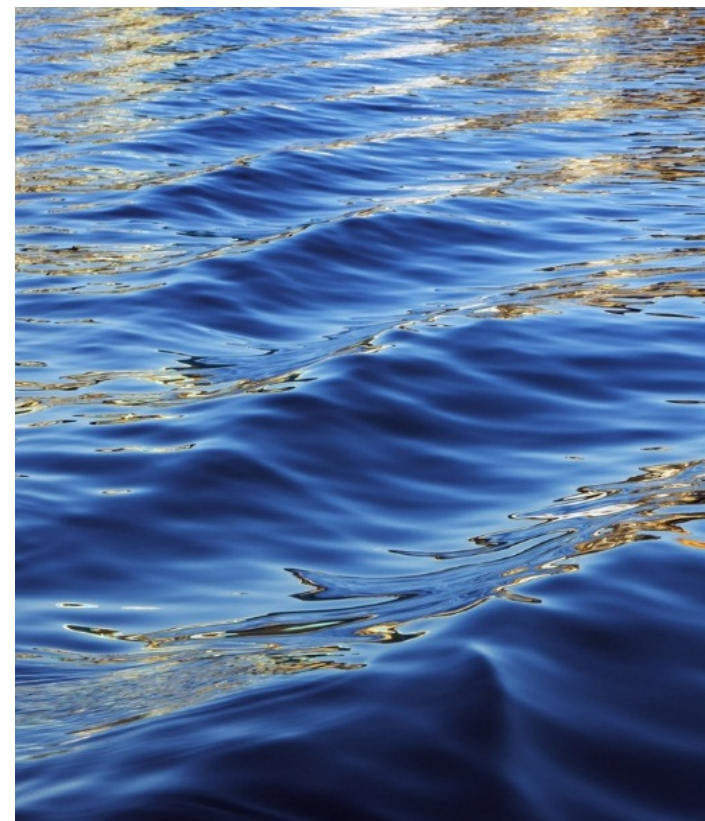




Agriculture and Municipalities

Municipal Day, Rutland
October 31, 2019



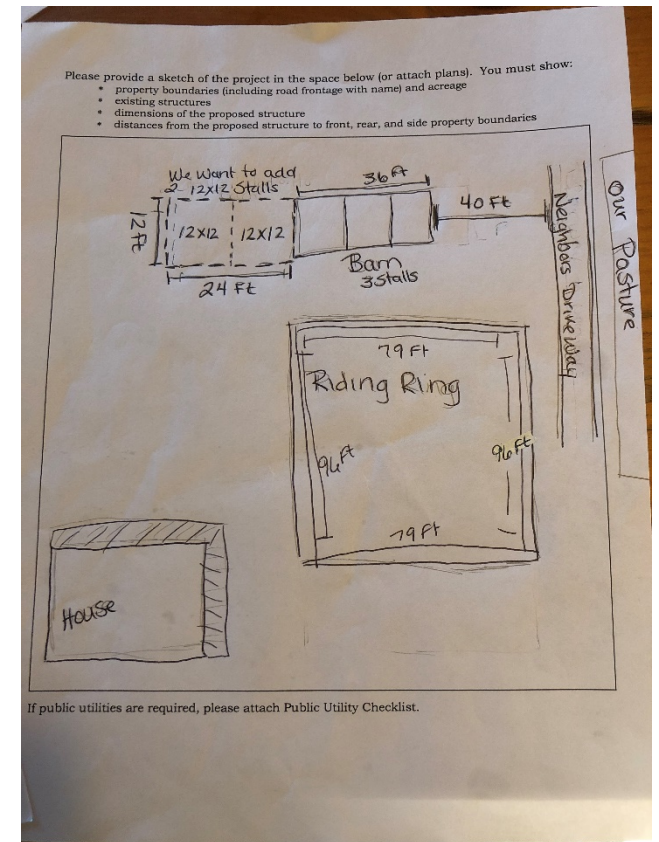
The intersection of
municipalities and agriculture:

- What is a farm?
 - RAPs – Why in WQ?
- On Farm Accessory



Farm and Farm Structure Determinations

- When are these needed?
 - Zoning
 - Building a farm structure
 - Accessory on Farm Business
- What is a farm structure?
 - Cannot be multi-use
 - Must still comply with fire safety and building codes
 - Must notify town
 - Must meet municipal setbacks unless a **variance** is granted by the Agency
- MS₄ – Moving fill
- NOT needed to engage in farming activities covered under the Required Agricultural Practices (RAPs)



Why are these questions so tricky?

- Farmers are finding new and innovative ways to sustain their operations
 - Value added – Accessory on Farm and Hemp
- These value added projects or increased diversification is a change for operators, the Agency, Municipalities, and the public
- Regulations and policy are playing catch up
- Operations vary GREATLY
- Increasing number of small operations popping up with the hemp industry





What is a Farm?

- \$2,000.00 or more in Ag Sales
- 4.0 contiguous acres
- 4 horses, 5 cattle or Cows, 15 pigs, sheep or goats, 50 turkeys, 100 hens, 30 rabbits, etc...
- Managed by farmer filing a 1040(F) tax form in at least one of the past two years
- Prospective business or farm management plan
- Designated by the Secretary

What is Farming?

- Cultivation or other use of land for food, fiber, Xmas Trees, Maple, or orchard crops
- Livestock, Greenhouses and Maple syrup production
- Storage, prep or sale of ag products or Fuel or power from ag products or waste principally (>50%) produced on the farm
- Boarding or owning 4+horses including training, showing, or lessons



FARMS have to follow the Required Agricultural Practices

- ☐ 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)
- ☐ EDUCATION: Farmers, Custom Operators, Technical Service Providers
- ☐ Tile drainage requirements

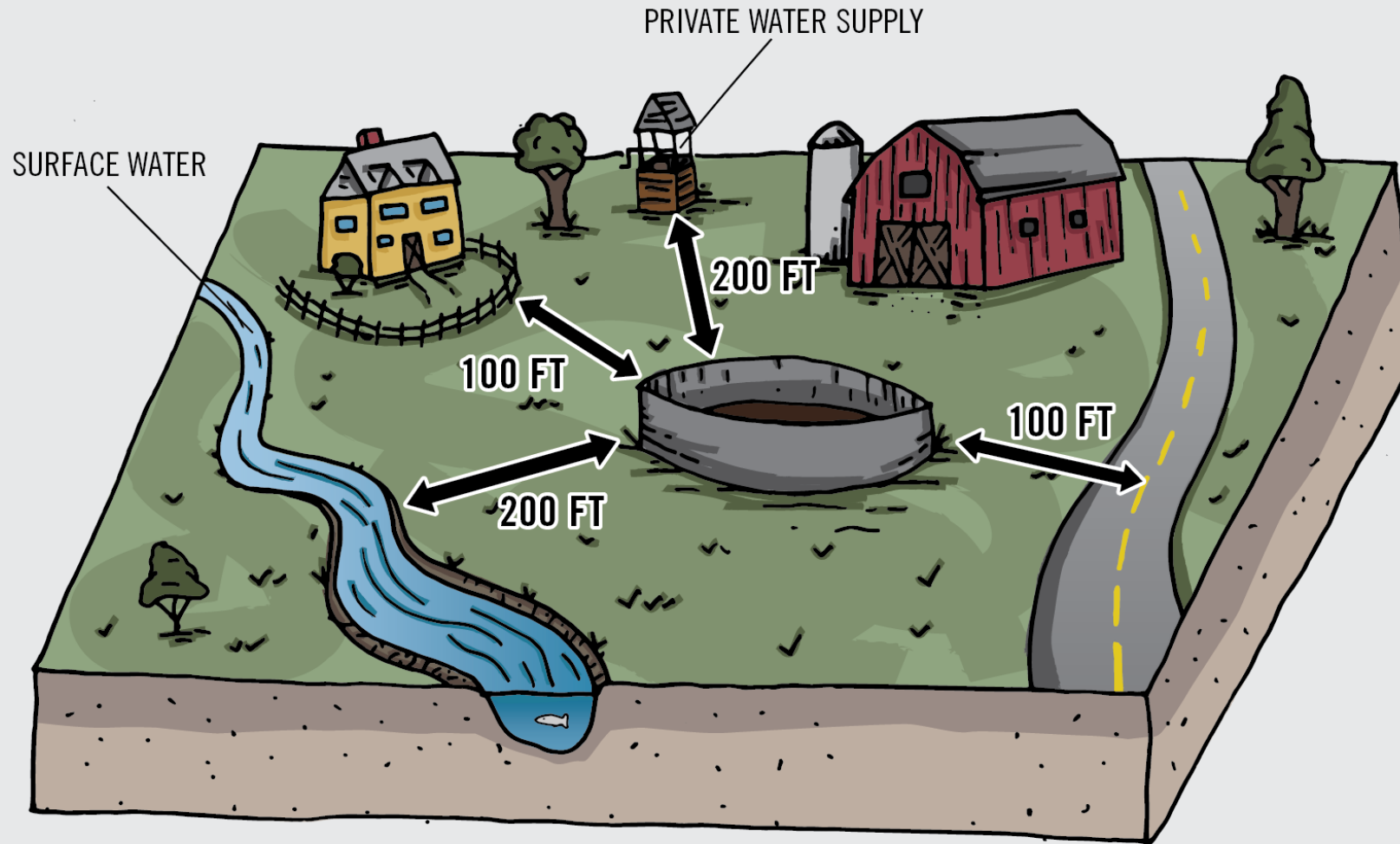


Construction

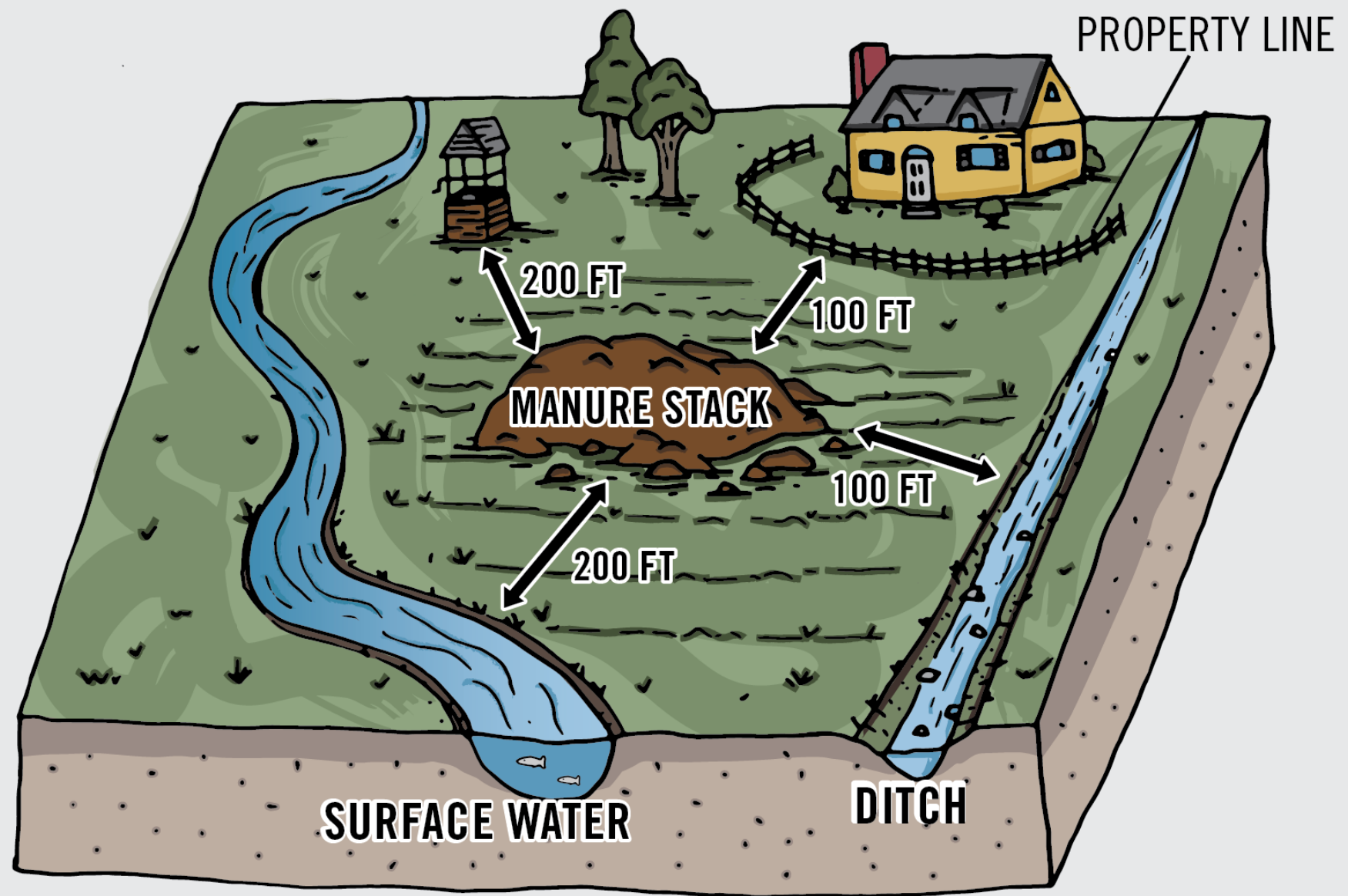
- Farms must notify **the Town**
- Must follow **local setbacks** unless otherwise approved
- Need to comply with **Other State permit Requirements**
- RAP Setbacks - examples



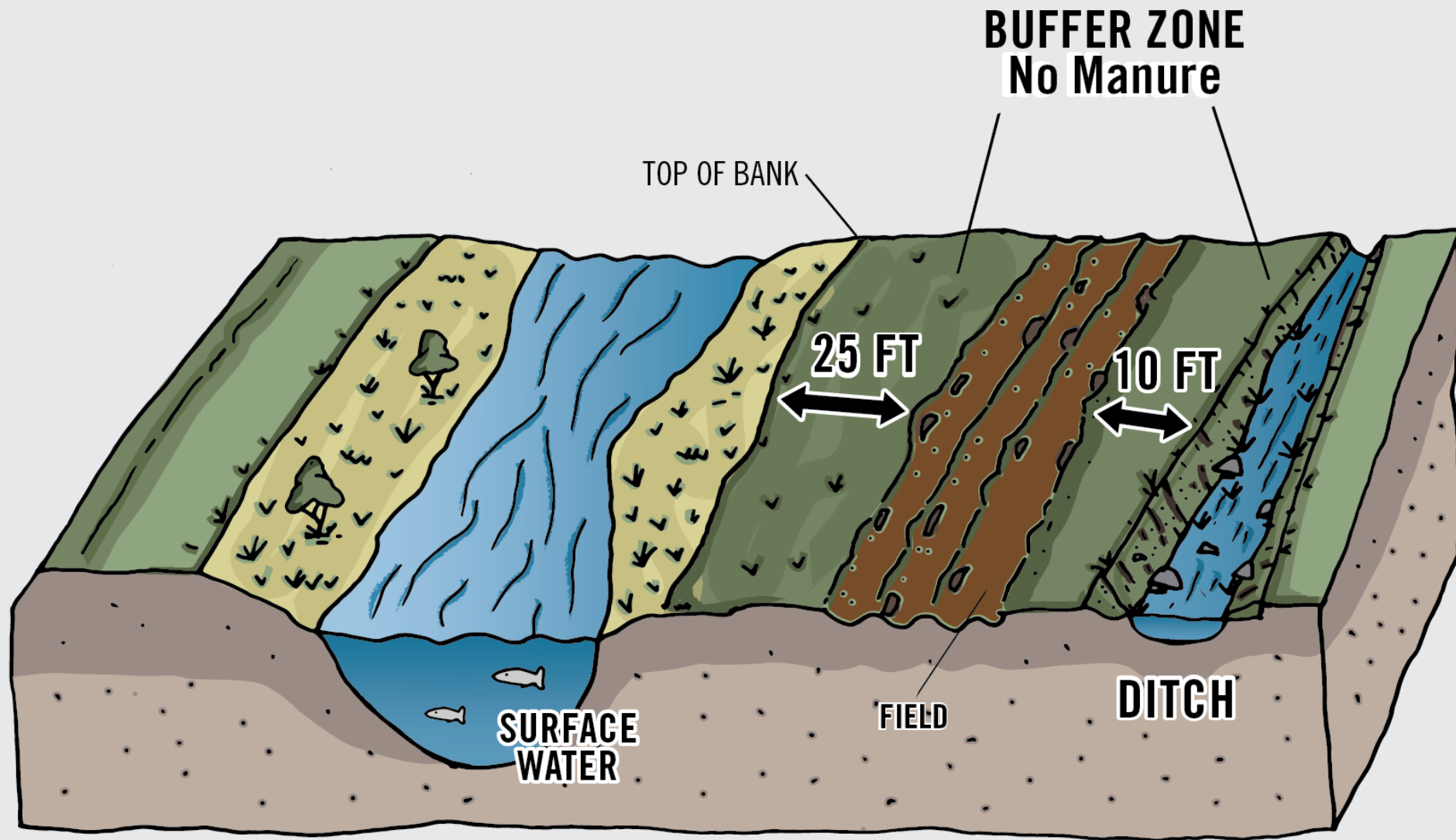
ALL NEW WASTE STORAGE FACILITIES PROPOSED ON SITES WHERE NO STORAGE FACILITY OR PRODUCTION AREA PREVIOUSLY EXISTED SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING SETBACKS:



New Waste Storage Facilities

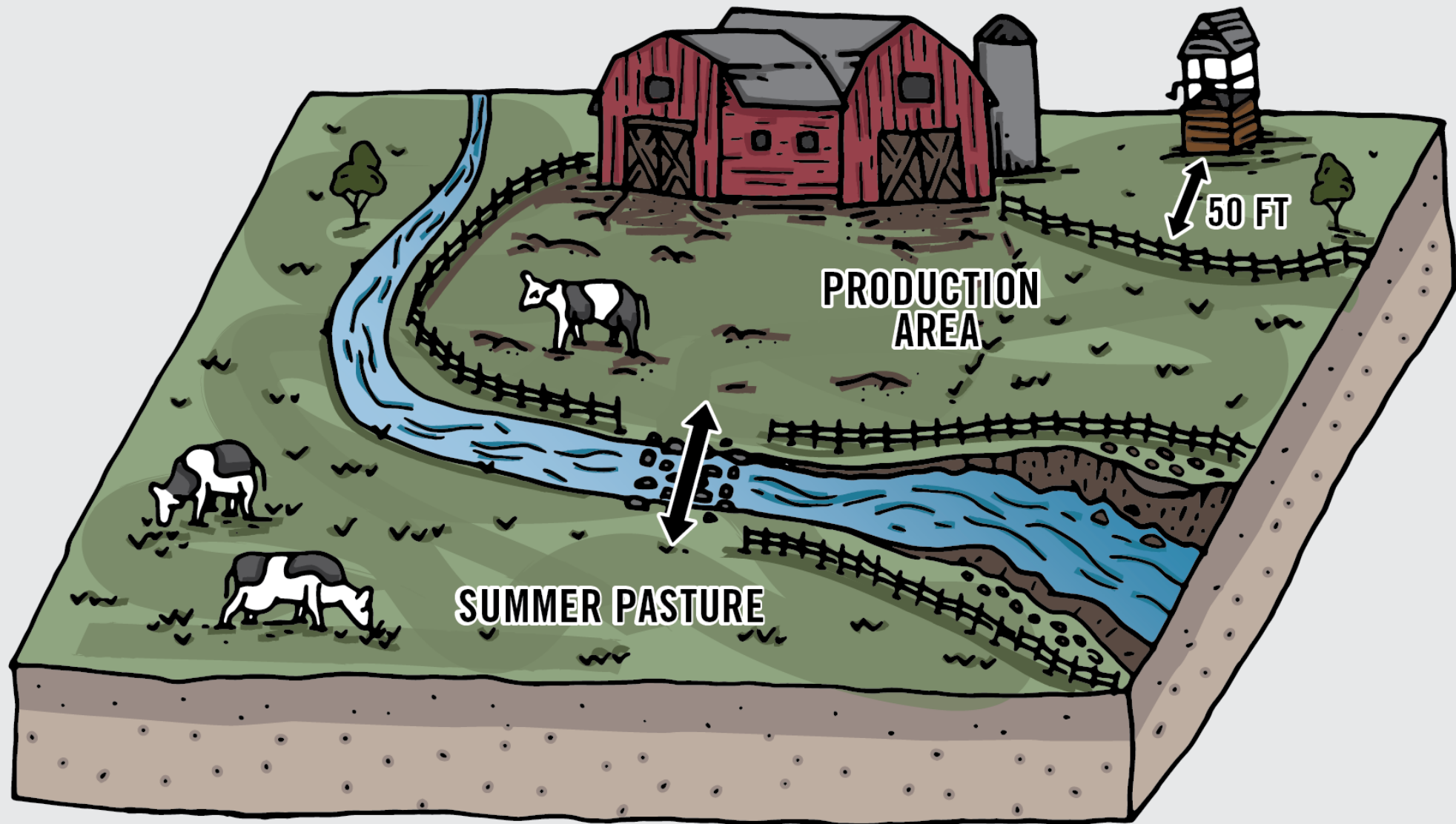


Manure Stacking Setbacks



Buffer Zones

BUFFERS ARE HARVESTABLE AND THEY CAN BE GRAZED BUT THE BUFFER CANNOT BE TILLED OR HAVE COMPOST OR FERTILIZER APPLIED EXCEPT FOR ESTABLISHMENT OR MAINTENANCE.



Livestock Exclusion from Surface Waters

LIVESTOCK SHALL BE EXCLUDED FROM SURFACE WATERS IN PRODUCTION AREAS (BARNYARD, FEEDLOT AND HEAVY USE AREAS) EXCEPT AT DIFINED LIVESTOCK CROSSINGS OR WATERING AREAS

Agriculture.Vermont.gov/rap



Accessory on-farm businesses

Act 143

An act relating to municipal regulation
of accessory on-farm businesses



When does AOFB law come into play?

- Only in communities with land use regulations



AOFB does not change the applicability of other regulations

Act 250

Fire safety

Wastewater/
Potable Water

Wetlands

Health

Department

On-farm
slaughter

Stormwater

ACT 143 DOES NOT CHANGE ENROLLMENT
REQUIREMENTS FOR LAND AND BUILDINGS IN THE
CURRENT USE PROGRAM



What does the law do?

- Creates a statewide municipal land use category called “accessory on-farm business”

Accessory On-Farm Business

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.



What does the law do?

- It defines terms for the purposes of implementing the law



Definitions

- “Farm stay” means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.
- “Qualifying product” means a product that is wholly: (I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup; (II) livestock or cultured fish or a product thereof; (III) a product of poultry, bees, an orchard, or fiber crops; (IV) a commodity otherwise grown or raised on a farm; or (V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

Definitions

- “Farm” means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee’s own farm. [...]
- “Farming” includes the on-site storage, preparation, and sale of agricultural products principally produced on the farm”



What does the law do?

- Limits municipal regulatory authority over AOFB to site plan review and application of performance standards

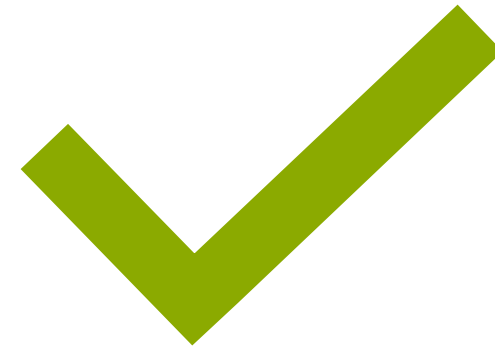
Who is Responsible?

- AAFM
- Operator
- Municipality



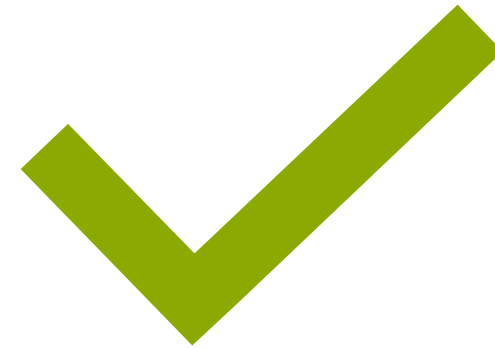
Existing AAFM Responsibilities

- AAFM continues to protect and maintain water quality by requiring farm operators to meet standards outlined in the Required Agricultural Practices rule
- AAFM maintains responsibility for determining whether it is a farm and Required Agricultural Practices rule apply to the operation
- AAFM approves alternative setbacks from those required by a municipal bylaw, as outlined in the Required Agricultural Practices rule



NEW AAFM Responsibilities

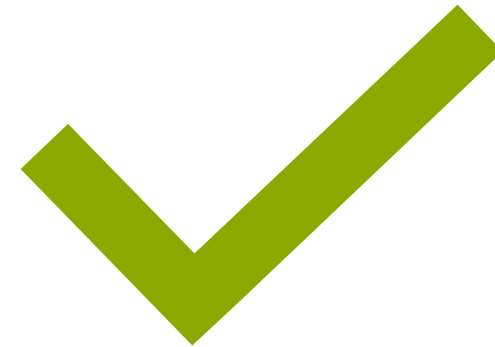
- Provide periodic written notification and training sessions to farms covered by the Required Agricultural Practices rule on the existence and requirements of this law
- Alert farms that in order to operate an accessory on-farm business other state permits may be necessary



Farm Operator Responsibilities

Apply for municipal site plan review and other permits, as necessary and provide evidence used in site plan review process

- Is it a “farm” covered by Required Agricultural Practices rule?
- Is it a business that is accessory to the primary farm use?
- Is the business operated by farm owner, one or more persons living on the farm, or a lessee of a portion of the farm?
- Is it an educational, social or recreational event that features agricultural practices or qualifying products, or is a business that sells qualifying products?

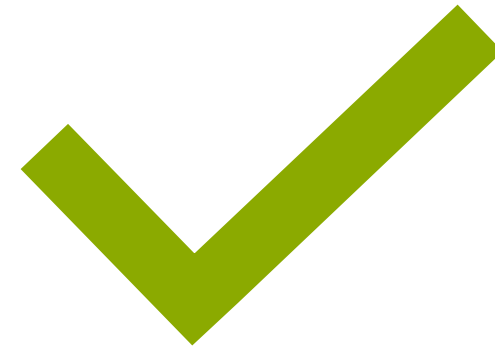


Municipal Responsibilities

Determines eligibility of the proposal to qualify as an Accessory On-Farm Business

- Is it a farm owner, resident, or lessee?
- Does it meet the definition of an accessory on-farm business?
- Applies municipal site plan review and performance standards and issues decisions

*Municipalities can adopt more permissive land use regulations



This Law Does Not

- It does not change the need to get other permits for development or to operate a business



Accessory On-Farm Business Analysis Sales



- Is this a “farm”? And is “farming” happening on the site?
 - How much is the sales from products principally produced (PPP) on the site?
 - What is the sales from qualifying products (QP)?
- QP sales must not exceed 49% of the total sales of PPP at the site of the business.

Accessory On-Farm Business Analysis Events



- Is this a farm? And Is “farming” happening on the site?
- Does the farm host educational, recreational or social events on the farm? and
- Does it include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products ?



Questions?



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