

TITLE 7: AGRICULTURE AND ANIMALS

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CHAPTER 2-C VOLUNTARY MUNICIPAL FARM SUPPORT PROGRAM

§60. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Farm support arrangement. "Farm support arrangement" means an arrangement that meets requirements established by the department by rule under which:

- A. The owner of qualified farmland grants to a municipality a qualified easement; and
- B. The municipality obligates itself to make farm support payments.

2. Farm support payments. "Farm support payments" means annual payments by a municipality during the term of a qualified easement:

- A. In an amount up to 100% of the annual property taxes assessed by that municipality against land and buildings subject to a qualified easement up to the fair market value of the easement; and
- B. To the person against whom the property taxes are assessed.

3. Qualified easement. "Qualified easement" means an agricultural conservation easement held by a municipality on qualified farmland in that municipality that:

- A. Meets standards adopted by rule by the department designed to ensure that no development other than development related to agricultural use occurs on the qualified farmland; and
- B. Is limited to a term of not less than 20 years.

4. Qualified farmland. "Qualified farmland" means farmland that meets eligibility requirements established by the department by rule.

§60-A. PROGRAM ESTABLISHED

1. Program. In order to protect and support local farms, preserve farmland and reduce the potential tax burdens from new development, a municipality may enter into farm support arrangements with the owners of qualified farmland.

- A. A farm support arrangement must be approved by majority vote of the municipality's legislative body.
- B. Unless approved by a 2/3 vote of the municipality's legislative body, the municipality may not enter into farm support arrangements:

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(1) Affecting more than 3% of the total annual valuation of taxable land in the municipality; and

(2) In any calendar year, affecting more than 1% of the total annual valuation of taxable land in the municipality.

2. Effects of arrangement. A farm support arrangement may not diminish the eligibility of qualified farmland for participation in tax benefits under Title 36, chapter 105, subchapter 2-A or 10 or for consideration under Title 5, Part 15-A by the Land for Maine's Future Board.

3. Nullification. A farm support arrangement, once finally executed, is binding on the municipality. A municipality may not cease to make payments under the arrangement unless the land subject to the qualified easement is taken by eminent domain or state law otherwise authorizes the payments to cease. In the event that a municipality's obligation to make farm support payments ceases, the farm support arrangement and the related qualified easement are void and may not be given effect and the municipality shall provide notice of this fact to the owner of the qualified farmland and record that notice with the appropriate registry of deeds.

4. Rules. The department shall adopt rules governing farm support arrangements. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

CHAPTER 4 AGRICULTURAL FAIRS AND PULLING EVENTS

§86. STIPEND FUND

1. Annual distribution. The commissioner shall annually distribute all money contributed to the Stipend Fund under Title 8, sections 286 and 287 to qualified licensees in accordance with this section.

2. Distribution of funds to fair licensees that conduct pari-mutuel racing. Forty-four percent of the amounts contributed to the Stipend Fund under Title 8, sections 286 and 287 must be divided into equal amounts for reimbursement to each licensee that:

- A. Conducts pari-mutuel racing in conjunction with its annual fair;
- B. Has improved its racing facilities; and
- C. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

3. Distribution of funds to fair licensees who do not conduct pari-mutuel racing. Eight percent of the amount contributed to the Stipend Fund under Title 8, sections 286 and 287 for a calendar year must be divided into amounts in proportion to the sums expended for premiums by the licensee in that year for reimbursement to each licensee that:

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- A. Does not conduct pari-mutuel racing; and
- B. Has met the standards for facility improvements set by the commissioner for that licensee.

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.

4. Expenditures for administration and inspection services. The commissioner may expend annually up to 13% of the Stipend Fund for administrative and inspection services provided under this chapter.

5. Distribution to all eligible licensees. The amount remaining in the Stipend Fund after distributions in accordance with subsections 2, 3 and 4 must be divided among fair licensees meeting the eligibility criteria in subsection 6, prorated according to the amount of premiums and gratuities actually paid by those licensees in full and in cash or valuable equivalent.

In determining distribution under this subsection, no allowance is made on premiums offered and paid by a licensee at any competition held other than during the period at which its annual fair is held. Allowance may not be made or consideration given for lump sums, payments or premiums previously arranged and agreed upon for the presentation and display of any animals or products without regard to competition.

Premiums and gratuities used to determine apportionment under this subsection are limited to those paid for:

- A. Livestock and poultry;
- B. Vegetables, grains, fruits and flowers;
- C. Products derived from livestock;
- D. Home-canned, home-cooked and home-baked goods;
- E. Grange and farm exhibits;
- F. Boys' and girls' club exhibits;
- G. Mechanical arts exhibits;
- H. Domestic and fancy articles produced in the home;
- I. Pulling contests for equines and oxen; and
- J. Pulling contests for farm tractors and pickup trucks.

6. Eligibility for stipend. A licensee is not entitled to a stipend under this chapter unless:

- A. The licensee holds a license that is valid for the year for which the stipend is calculated;]
- B. Exhibits of vegetables, fruits, grains or dairy products are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those

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produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner;

C. The health status of domestic animals shown or exhibited at the fair satisfies the health requirements established by the commissioner in accordance with section 1811 and rules adopted pursuant to section 1752;

D. The fair is conducted in accordance with performance standards established in rules adopted pursuant to section 82, subsection 5; and

E. The minimum premiums established in subsection 7 are paid.

7. Minimum premiums required. To be eligible to receive a stipend, a licensee must:

A. Upon receiving an initial license, spend a minimum of \$750 per year on premiums for 3 years for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests; and

B. Upon fulfilling the requirement under paragraph A, continue to spend a minimum of \$1,200 on premiums yearly for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests.

8. Maximum allowed distribution from Stipend Fund. A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums and gratuities in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of \$10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund or the Agricultural Fair Support Fund in accordance with section 91.

CHAPTER 6 MAINE AGRICULTURE PROTECTION ACT

§152. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural composting operation. "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.

2. Agricultural products. "Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with

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food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

3. Agricultural support services. "Agricultural support services" means the aerial or surface application of seed, fertilizer, pesticides or soil amendments and custom harvesting.

4. Composting. "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.

5. Farm. "Farm" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

6. Farm operation. "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor.

CHAPTER 747 NUTRIENT MANAGEMENT ACT

§4204. NUTRIENT MANAGEMENT PLAN

1. Nutrient management plan required. A person who owns or operates a farm that meets the criteria established in subsection 2 shall have a nutrient management plan for that farm and shall implement the provisions in that plan by the dates specified for that category of farm in subsection 4, 5, 6 or 7. The nutrient management plan must be prepared by a person certified in accordance with section 4202, subsection 2 and must address the storage and utilization of all farm nutrients generated on or transported to the farm. A nutrient management plan developed by a farm owner or operator is deemed to have been prepared by a certified nutrient management specialist if a certified nutrient management specialist reviews the plan for compliance with this chapter, signs the plan and notifies the department in accordance with subsection 3.

1-A. Plan requirements. For livestock farms, the nutrient management plan must address storage and utilization of farm nutrients for the entire farm operation including leased or rented land. For crop farms, the plan must address storage and utilization of farm nutrients on land on which manure is utilized or stored. A nutrient management plan must include or provide for:

- A. Minimum distances between manure storage, stacking and spreading areas and property lines and surface water based on site-specific factors;
- B. Manure storage for a minimum of 180 days;
- C. Provisions for soil erosion control;
- D. [Repealed]
- E. Results of soil tests for land designated in the plan for manure spreading or manure irrigation;
- F. Results of manure tests;

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G. A statement of yield goals for land receiving farm nutrients;

H. Additional information established through rulemaking;

I. Site-specific dates recommended for the spreading of manure and spraying or irrigation of liquid manure. In compliance with section 4207, the plan may not recommend spreading between December 1st of a calendar year and March 15th of the following calendar year; and

J. A recommended timetable for implementing the plan.

2. Farms requiring a nutrient management plan. A farm that meets one or more of the following criteria is required to have a nutrient management plan:

A. A farm that confines and feeds 50 or more animal units at any one time;

B. A farm that stores or utilizes more than 100 tons of manure per year not generated on that farm;

C. A farm that is the subject of a verified complaint of improper manure handling; or

D. A farm that stores or utilizes regulated residuals.

3. Responsibility of person preparing nutrient management plans. Upon completion of a nutrient management plan, a person certified to prepare nutrient management plans in accordance with this chapter shall notify the department. The notification must include the name and address of the owner or operator of the farm and the location of the farm for which the plan was prepared. A person preparing a nutrient management plan required by this chapter shall adhere to rules adopted in accordance with this chapter pertaining to the preparation and requirements of the plan.

4. Compliance date for farms operational on March 31, 1998. Except for a farm requiring a livestock operations permit under section 4205 or as provided in subsection 8, an owner or operator of a farm that was operational on March 31, 1998 and meets the criteria established in subsection 2, paragraph A or B shall have a nutrient management plan prepared for that farm no later than January 1, 2001. Except as provided in subsection 8, the plan must be implemented no later than October 1, 2007.

5. Compliance date for farms that were operational on March 31, 1998 that store or use regulated residuals. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2, paragraph D and that was operational on March 31, 1998 shall have that plan prepared by January 1, 2000. Except as provided in subsection 8, the plan must be implemented no later than January 1, 2000.

6. Compliance date for farms becoming operational after March 31, 1998. An owner or operator of a farm that is required to have a nutrient management plan under subsection 2 and that was not operational on March 31, 1998 shall have a nutrient management plan prepared before the farm becomes operational. Except as provided in subsection 8, the plan must be implemented at the time the farm becomes operational.

7. Compliance date for farms subject of verified complaint. When a farm is required to have a nutrient management plan under subsection 2, paragraph C, the commissioner shall establish a date by which the plan must be developed and a date for implementation of the plan.

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8. Variances. For farms with compliance dates established in subsection 4, the commissioner may grant a variance from the date by which a nutrient management plan must be prepared and certified when the commissioner finds that technical assistance or resources are not available to complete and certify the plan by January 1, 2001. The commissioner may grant a variance from the implementation date in subsection 4, 5 or 6 when the commissioner finds that implementation of the plan would cause undue hardship. A person requesting a variance shall submit a request in writing to the commissioner at least 90 days prior to the applicable implementation date. The commissioner shall establish by rule criteria and a process for granting a variance. Factors considered must include protection of groundwater and surface water, cost of implementing the plan, availability of financial assistance to implement the plan and availability of technical assistance or resources to complete and certify the plan. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Notwithstanding the provisions of this subsection, a variance may not extend an implementation date beyond December 31, 2008. A person denied a variance by the commissioner may appeal that decision to the board.

9. Violation. The following are civil violations for which a fine of up to \$1,000 plus up to an additional \$250 per day for each day that the violation continues may be adjudged:

- A. Failure to develop a nutrient management plan in accordance with this section; and
- B. Failure to implement a nutrient management plan in accordance with this section or rules adopted pursuant to this section. Prior to the development of a plan, a person is not subject to a penalty for failure to implement a nutrient management plan.

10. Nutrient management plan confidential. A nutrient management plan prepared in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. A copy of a nutrient management plan required under this section must be available to the commissioner or the commissioner's designee upon request.