



**State of Vermont  
Agency of Natural Resources**

## **Agricultural Activities on Land Owned by the Agency of Natural Resources**

### **Background**

The Vermont Agency of Natural Resources (ANR), through the Departments of Forests, Parks and Recreation (FPR), Fish and Wildlife (FWD), and Environmental Conservation (DEC), owns 350,000 acres of land in Vermont. Approximately 1,062 acres of this land are currently leased or licensed for agricultural use. ANR has allowed agricultural use, including hay, row crop and vegetable production, and livestock pasture on land owned by all three Departments in all five districts.

Land conservation and stewardship is an essential part of meeting the conservation missions of ANR and each Department. Many of the leases or licenses allow agricultural activities that benefit wildlife, in particular migratory waterfowl. For instance, agricultural activities are used at Dead Creek Wildlife Management Area in partnership with neighboring farmers to grow hay and row crops. This provides food and cover for migrating ducks and geese, as well as benefitting other wildlife such as white-tailed deer, wild turkey, hawks, and more. Other benefits from agricultural activities include management of invasive species and maintaining open space and the rural character of the working landscape, all of which fit with the conservation interests of ANR.

[Note that while FPR maintains licenses and FWD historically maintains leases, only licenses will be used for all departments moving forward.]

### **Philosophy for Allowing Agricultural Activities on ANR Land**

ANR recognizes and appreciates the value of agriculture to Vermont's rural heritage and the benefits it provides to the State. Given ANR's conservation mission, it is essential that the justification for allowing agricultural activities on land conserved by ANR be consistent with all applicable ANR land management policies, procedures, and guidelines. In addition, all agricultural activities conducted on ANR land must, at a minimum, meet Vermont's Required

Agricultural Practices (RAPs). ANR works cooperatively with the Agency of Agriculture, Food and Markets (AAFM) to oversee implementation of these minimum standards and ensure compliance with them – and support from AAFM is essential in this regard. In addition, at appropriate times, such as when leases or licenses expire or during the development of Long Range Management Plans, Departments will carefully evaluate the circumstances of each property where activities are currently allowed to ensure compatibility with the ownership interests of ANR and the Department based on pre-established criteria as listed below, and are consistent with current policies, procedures and guidelines for ANR land management.

### **Assessment of All ANR Land Currently Used for Agricultural Activities**

During the 2018 growing season, ANR completed an assessment of all land owned by ANR under an active lease or license to a farmer for agricultural activities. Land was evaluated for compliance with the license or lease, maintenance of buffers and land management practices that were visible at the time of the site visit. Farmers were also contacted. A full summary is attached. Results of this assessment helped guide the development of this policy.

### **Criteria for Determining Whether to Allow Agricultural Activities**

ANR maintains the position that in many cases, continuing agricultural activities in some form benefits all parties. The Agency evaluates when to allow agricultural activities on land owned by its Departments based on criteria and considerations that reflect the purposes for which the land is owned. Any agricultural activities allowed on land owned or controlled by ANR are established in a license, including applicable terms and conditions. At a minimum, the following criteria will be considered when determining whether or not to allow agricultural activities on land owned by any of the three Departments:

- a. Is the agricultural activity compatible with the primary purposes and management objectives for the ownership?
- b. Has the activity been conducted on the property for a period of time such that the history of land use is an important consideration relative to rural working land?
- c. Does the activity benefit wildlife, habitat, soil condition or other natural resource conservation interests?
- d. Does the activity benefit public access to public land?
- e. Does the activity benefit water quality, riparian area integrity, invasive species control, wetlands, or other aquatic and related resources?
- f. Does the activity serve to support interests of the local community and benefit ANR and public ownership interests as a result (good neighbor consideration)?

- g. Is there opportunity for the activity to serve as a demonstration site for innovative or best agricultural practices?
- h. Does the activity provide a cost-effective way of meeting other management objectives of the Department?
- i. Is the activity supported by the respective district stewardship team?

### **Roles and Responsibilities of ANR and Licensee for Allowing and Conducting Agricultural Activities on ANR Land**

In order to ensure appropriate execution of agricultural activities allowed on land owned by any of the three ANR Departments, the following responsibilities must, at a minimum, be met by each of the primary parties. There may be instances where other parties not listed here have responsibilities for compliance with the terms and conditions of licenses that allow agricultural activities and those would be identified in the license.

ANR, through the appropriate Department, shall:

- Identify, in writing, a Department designee to serve as primary point of contact for the licensee;
- Develop, implement and maintain consistent minimum requirements in licenses with additional requirements where appropriate based on criteria and site-specific Department or ANR policy, including the Long Range Management Plan;
- Designate a single representative from the respective Department that owns the property to administer each license and make it clear to the tenant who that person is;
- Ensure the licensee is in compliance with provisions of deed requirements or restrictions;
- Ensure protections of riparian zones associated with land subject to licenses as recommended under current River Management Program policies;
- Coordinate with ANR Departments to provide technical guidance in riparian protection guidelines, wetland rules and regulations and other land-use requirements;
- Ensure timely payment of applicable license fees;
- Require, receive and review site-specific information required by license to ensure compliance with all terms, conditions and expectations (e.g. soil tests);
- Communicate with licensee annually prior to commencement of field activity to ensure familiarity with license terms and assess need for site visit;

- Conduct inspection visits to each site at least every three years or when a license is renewed, whichever is sooner, to ensure compliance and maintain relations with the tenant;
- Assign responsibility for development and maintenance of access for agricultural activities, ANR management activities, and public access;
- Coordinate with AAFM to ensure compliance with state RAPs;
- Refer possible RAP non-compliance issue to AAFM in a timely manner; and
- Refer any discharge or other environmental permitting noncompliance to DEC in a timely manner.

Licensee shall:

- Comply with all terms and conditions of the license, including those that may require management above and beyond current state regulations;
- Comply with all current state and federal regulations, including, but not limited to the state RAPs, stream alteration rules, river corridor requirements and wetland regulations;
- Where required by the RAPs, maintain an accurate and updated Nutrient Management Plan (NMP) and provide a copy of field specific guidance and recommendations to the Department designee;
- Conduct soil tests every three years and provide a copy to the appropriate Department designee;
- Follow site-specific requirements in the license (e.g. mowing or spreading details for management of waterfowl), including but not limited to no tree cutting, streambank disturbance, or earthmoving without prior authorization.
- Licensee shall ensure compliance with all aspects of the ANR Riparian Management Guidelines, including those which may exceed RAP buffer standards. [Licensee and Department designee will meet to identify and delineate buffers established in the license prior to commencement of field activity by the licensee.]

ANR shall seek technical assistance from AAFM to:

- Respond to and appropriately address any referred RAP non-compliance reports according to the current ANR/DEC MOU on enforcement;
- Communicate with Department designee about the status and outcome of any non-compliance investigation;
- Be a resource for ANR staff with technical assistance for agriculture specific land management standards, including, interpretation of soil tests or NMP data, among others.

## Establishing Terms and Conditions for Licenses

ANR shall ensure that terms and conditions for allowing agricultural activities on land owned by any of the three Departments are consistent and based on the circumstances of the site, natural resource considerations, public use and access considerations, and other relevant factors. The following requirements serve as consistent standards that should be included as conditions in all licenses that allow agricultural activities on ANR land (note, this is not a comprehensive list of conditions as there may be site specific circumstances that require other conditions):

- Licensee shall ensure compliance with all aspects of the RAPs;
- Licensee shall ensure compliance with all aspects of the ANR Riparian Management Guidelines, including those which may exceed RAP buffer standards
- Licensee shall ensure compliance with all aspects of wetland and stream alteration rules;
- No placement of fill, no new ditch construction, dredging, or streambank armoring shall occur without the prior review and authorization from the appropriate State and Federal Authorities, including the Department designee; existing ditches may be cleared of debris without consultation with the Department designee unless otherwise specified in the special conditions of the license;
- Soil tests will be taken by the licensee and analyzed in accordance with AAFM standards at least once every three years and a copy of the results submitted to the Department designee electronically;
- Nutrients (fertilizer or manure) and lime may only be applied at the rate established in a current and approved NMP, if applicable, or current soil test recommendations. Reduced fertilizer or nutrients may be applied if deemed more appropriate for soil health or site-specific conditions. Septage, sludges, biosolids, or similar products are prohibited without prior authorization from the State;
- If a NMP is required for RAP compliance, the NMP must be current and sections related to land licensed from ANR made available to the Department designee upon request;
- Any riparian land that indicates active erosion may not be managed for agricultural production in any way without authorization of the DEC Rivers Management Program;
- No subsurface tile drainage may be installed without prior authorization from ANR;

- Use of any chemicals or pesticides (other than chemical fertilizers) must receive prior approval from the Department and must be applied in accordance with the *Use of Pesticides on ANR Lands Policy*.
- Ensure that ANR has access for management, including management of invasive plants or animals;
- Any activities conducted on the property outside the scope of the license must receive prior authorization from the Department or the license may be immediately terminated;
- Licensee must coordinate with Department designee regarding restrictions or accommodations for public access and may not interfere with lawful public access and use of the property;
- Licensee must coordinate with Department designee before taking any action to address issues related to beavers or beaver activity; and
- Licensee shall agree to defend and indemnify the State of Vermont in the same manner required by State Standard Provision for Contracts and Grants, Attachment C.
- Licensee shall agree to carry insurance and identify the State of Vermont as an additional insured on policies and in amounts in the same manner as required by State Standard Provision for Contracts and Grants, Attachment C.
- Licensee and the Department will communicate annually prior to commencement of field activity to ensure familiarity with license terms and assess need for site visit, and will meet in the field to discuss conditions of the license at least every three years or when a license is renewed (whichever is sooner).

Other interests that may become conditions of a license:

- The Department may elect to establish conditions for the timing of mowing, tillage, planting, establishment of cover crops and other agricultural practices to address various natural resource interests including providing food and cover for wildlife, providing nesting cover for grassland birds, avoid mortality of nesting birds, and protecting water quality, among others.

### **Process for Issuing a License to Conduct Agricultural Activities**

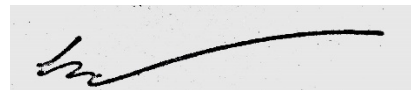
This process shall not apply to lands where the right to continue agricultural or forestry uses were a part of the acquisition of the land. In those cases, the right to continue using the land shall be continued under a license and in accordance with the terms of the rights negotiated at the time of sale.

1. For parcels that are licensed for under \$3,500 annually:
  - There are no procedural requirements to renew the license, unless more than one person requests to use the parcel.
  - There is no limitation on the number of renewals under this section.
  - Any renewal under this section should be for the fair market value of licensing agricultural land, giving appropriate consideration to the management restrictions that may be placed on the license (e.g. limitations on when agricultural activities can or cannot occur to encourage wildlife habitat).
  
2. For parcels that are licensed for more than \$3,500 annually, where there is more than one person interested in the use of the land, or there is a new license being granted to use the land:
  - The Department administering the license shall identify two or more persons who may be interested in using the land, notify those persons:
    - That there is an opportunity to obtain a license to use the land;
    - Of any restrictions that the Department is placing on the use of land;
    - Of any minimum license value the Department is willing to accept for the use of the land; and
    - Of the time and date when the prospective licensee must notify the Department of their interest and the amount they are willing to pay, annually, for the license.

**Signed: November 12, 2020**



Julia S. Moore, P.E  
Secretary, Agency of Natural Resources



Louis Porter  
Commissioner, Department of Fish &  
Wildlife



Peter Walke  
Commissioner, Department of  
Environmental Conservation



Michael Snyder  
Commissioner, Department of Forests,  
Parks and Recreation