

Annotated Text of Proposed RAP Rule Revision for Subsurface Tile Drainage

Sec. 1. RAP Sections 12 and 13 shall be renumbered RAP Sections 13 and 14.

Sec. 2. RAP Section 12 shall be added to read:

Section 12. Subsurface Tile Drainage

12.1 As used in this section, "Subsurface Tile Drainage" means a conduit installed in cropland beneath the ground surface to collect and/or convey water to an outlet.

12.2 Requirements for Subsurface Tile Drainage

For all farming operations subject to this rule, all cropland with any subsurface tile drainage must implement the following practices:

(a) Field stacking of manure or other agricultural wastes on sites not approved consistent with USDA NRCS standards, or otherwise approved by the Secretary shall not be sited within 100 feet of a subsurface tile drain. The Secretary may authorize site-specific standards.

(b) Concentrated feeding areas of unimproved barnyards and unimproved feedlots shall not be sited over subsurface tile drainage.

(c) New vegetative treatment areas for agricultural wastes shall not be installed within 200 feet upslope of a subsurface tile drain and new subsurface drainage shall not be installed within 200 feet downslope from the edge of an existing vegetative treatment area.

(d) Rodent guards must be installed at the outlet of all subsurface tile drainage systems by January 1, 2020

12.3 Requirements for Surface Inlets

For all farming operations subject to this rule, all surface inlets located within or adjacent to cropland, which for the purposes of this section do not include drainage controls such as diversion structures or grade stabilization practices approved by the Secretary, shall meet the following requirements:

(a) No new installations of surface inlets shall be located within or adjacent to cropland;

(b) Surface inlets shall be buffered from croplands by 25 feet of perennial vegetation. Mechanical application of manure or other agricultural wastes is prohibited within perennially vegetated buffer zones;

12.4 Requirements for Subsurface Pattern Tile Drainage

CSFO's, MFO's and LFO's shall implement the following practices on all cropland with "pattern tile drainage", which is defined as subsurface tile drainage systematically installed in a repeating pattern.

(a) A field-by-field nutrient management plan consistent with the requirements of the USDA NRCS Nutrient Management Practice Code 590 or other equivalent standards approved by the Secretary.

(b) Identify cropland with pattern tile drainage systems and input the data into the UVM Vermont Phosphorus Index (P-Index) for phosphorus loss risk assessment. If the P-Index results in a categorization of "Very High", then no manure or fertilizer containing phosphorus can be applied.

(c) Owners and operators of annual cropland, perennial grass land, or hay land who are required to implement a USDA 590 standard nutrient management plan and who have soil analyses demonstrating greater than 20 parts per million (ppm) phosphorus shall apply nutrients at less than UVM phosphorus crop nutrient removal rates.

(d) Manure or other agricultural wastes shall not be applied in exceedance of nutrient recommendations such that it ceases to be useful or beneficial for plant uptake.

(e) Manure or other agricultural wastes shall not be applied when field conditions are conducive to flooding, runoff, ponding, or other off-site movement, or can reasonably be anticipated to result in flooding, runoff, ponding, or other off-site movement, regardless of NMP recommendations.

(f) Cropland shall be cultivated in a manner that retains soil in the field and promotes soil health while minimizing visible erosion into buffer strips, across property boundaries, or that creates gully erosion. The performance management standard for the soil must result in an average soil loss less than or equal to the soil loss tolerance (T) for the prevalent soil type as calculated through application of the Revised Universal Soil Loss Equation 2 or through the application of similarly accepted models.

(g) No manure, agricultural waste, or fertilizers shall be applied 30 days preceding and 60 days following pattern tile drain installation.

Sec. 3. RAP Section 14 shall be amended to read:

Section 14. Effective Dates

~~(a) Sections 1—6.04(c), 6.05(a), and 6.05(e)—13 of this regulation shall become effective on [date of adoption];~~

~~(b) and (b) Sections 6.04(d) and 6.05(b) of this regulation shall become effective on April 15, 2017.~~

This regulation shall become effective on [date of adoption].