

## **An Example of the Importance of Regulatory Flexibility for Small Business**

### **When Business and Regulators Collaborate – Preserving Vermont Farms**

In 2003, pursuant to the federal Clean Water Act, the federal U.S. Environmental Protection Agency (EPA) proposed new regulatory requirements for managing manure runoff on medium-sized farms. According to the EPA, improperly managed manure has caused serious acute and chronic water quality problems throughout the U.S. The regulations put in place to combat the problems are referred to as concentrated animal feeding operations (CAFO) rules.

In Vermont, agriculture-related businesses provide for approximately 63,000, or 15 percent, of all jobs in the state. Dairy farms dominate, producing \$434 million or 75 percent of the state's \$582 million in farm receipts in 2004. The importance of farming to Vermont goes beyond agriculture. By providing large expanses of open space and bucolic settings, farming is also widely recognized in Vermont as a vital part of the state's quality of life and attractiveness as a tourism destination.

Vermont policymakers and stakeholders feared that new federal rules, requiring every dairy farm to apply for an individual operating permit, could lead to a permitting process that would be complicated and costly to small farms. Therefore, the Vermont Agency of Agriculture decided to issue and administer its own rules governing the permitting requirements for farms within the state which would also meet the federal standards.

Under Vermont's Administrative Procedure laws, agencies must prepare an economic impact statement that analyzes the anticipated benefits and costs from adoption of the rule. Agencies must also consider ways to reduce the cost and burden of compliance for small business.

Recognizing that small employers best understand the economic impact of proposed rules and are likely to come up with less burdensome alternatives, the Vermont Agency of Agriculture is working closely with small farm owners and the Vermont Farm Bureau. This collaboration has assisted the agency in collecting data and crafting an economically feasible and flexible approach to the permitting issue. As a result, the Agency is currently developing an alternative general permit that will reduce the time and expense of filing while at the same time meeting the agency objective and the federal standards.

This example demonstrates the importance of analyzing the economic impact of a rule on small entities before regulating and how small businesses and regulators can work together to craft flexible regulatory alternatives. By reducing the burden on small farms, these small entities are able to survive in a competitive marketplace and benefit the state's economy. At the same time the agency objective of improving Vermont's water quality can be accomplished.