



January 18, 2023

Dear Chair Haskell,

Now that the Natural Resources Board's (NRB) stakeholder meetings regarding potential changes to how Accessory On-Farm Businesses (AOFB) are regulated in Vermont have come to a close, and the NRB has issued a draft report, the Vermont Natural Resources Council (VNRC) and Conservation Law Foundation (CLF) wishes to share its reflections about the stakeholder process and provide comments on the report. Specifically, that the process did not leave enough time for participants to effectively analyze and discuss specific proposals to amend how AOFBs are regulated in Vermont. In addition, as outlined below, VNRC and CLF do not believe that the process effectively identified the problem that the various proposals were trying to solve. A thorough identification of the specific issues with the regulation of AOFBs should be a prerequisite to discussing and considering any statutory changes to how AOFBs are regulated.

We would like to emphasize the need for continued discussion, education, and data to identify the specific issues that may exist with regard to the regulation of AOFBs and any specific proposals to address any identified problems - before any changes to the statutes that apply to AOFBs are considered. To that end, VNRC and CLF appreciate that the NRB's draft report identifies options for potential changes to how AOFB's are regulated but does not recommend any specific changes at this time.

In terms of data that must be collected for a proper examination of this issue we recommend the following:

*Collecting data to identify specific problems, and the extent of those problems. The two surveys conducted at the beginning of this process provided some useful information, but did not go far enough to paint a comprehensive picture of what is not working with the current regulation of AOFBs. For example, what types of regulations or permits are causing issues for AOFBs? Are the issues the same among all farms or different by size or types of activities? Where have community challenges with AOFBs occurred, and why? What are the specific problems with regulations or permits that AOFBs are experiencing and how would a change to the regulations that apply to AOFBs address the problem?*

In addition, VNRC and CLF believe that the stakeholder process revealed the need for additional funding for education and NRB staff support to help farmers and municipal officials understand the existing laws related to AOFBs before any statutory changes are implemented. Throughout the process various stakeholders clearly expressed that the initial plan for municipal and farmer education when the AOFB

laws were passed were not properly implemented contributing to - if not resulting in - much of the confusion and frustration experienced by farmers regarding the rules that apply to AOFBs. VNRC and CLF's position is that education and support for farmers and municipal officials with regard to Vermont's AOFB laws, and identifying any specific problems with the existing law, must occur before any changes to the law should be considered.

Specifically regarding the legislative options detailed in the *Act 250 Jurisdiction over Agricultural Businesses* draft report shared on December 8, VNRC and CLF have the following concerns and feedback:

1. Clarify definitions of “principally produced,” “qualifying products,” “farming,” and “accessory on-farm businesses”
  - a. We encourage future discussions on this issue to focus on how any alternative approach would retain the initial intent of the 50% threshold, which was to ensure AOFBs as value-added farm businesses rather than a convenience store or restaurant for example.
2. More precisely define what types of businesses qualify as AOFBs
  - a. We agree that splitting agricultural educational events and recreational/social events into two categories could be a productive way to more efficiently address land use and community impacts and merits further discussion.
  - b. We agree with the proposed focus on clarifying the definition of AOFBs to be better understood, and would also recommend funding for enhanced training and NRB staff support for municipalities and farmers.
3. Treatment of AOFBs in Act 250 exemptions
  - a. We do not support exemptions from Act 250 unless it is established that Act 250 review is problematic for AOFBs and that adverse environmental or community impacts will not result from the exemption. Moreover, we do not think any Act 250 exemptions should be considered this Legislative session while the NRB is engaging in broader studies to comprehensively improve Act 250, which includes looking at location-based jurisdiction. That larger study will allow more time to examine issues we have raised in this letter.

We appreciate the work of the NRB and AAFM to advance this complex issue, and look forward to continued discussions.

Sincerely,

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*R. Scott Sanderson*

Manager of Farm & Food | Conservation Law Foundation

CC: Rep. Amy Sheldon, Chair, House Committee on Environment & Energy  
Rep. David Durfee, Chair, House Committee on Agriculture, Food Resiliency, & Forestry  
Sen. Chris Bray, Chair, Senate Committee on Natural Resources & Energy  
Sen. Robert Starr, Chair, Senate Committee on Agriculture  
Anson Tebbetts, Secretary, Agency of Agriculture, Food & Markets

